

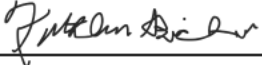
UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE

Case No.  
15-RC-280545Date Filed  
July 28, 2021

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov/](http://www.nlr.gov/), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

<b>2a. Name of Employer:</b> CenTrio		<b>2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code):</b> 1661 Gravier Street, New Orleans, Louisiana 70112	
<b>3a. Employer Representative - Name and Title:</b> Gordon Morrow, Director of Plant Operations		<b>3b. Address (if same as 2b - state same):</b> Same	
<b>3c. Tel. No.</b> (504) 569-2135	<b>3d. Cell No.</b>	<b>3e. Fax No.</b>	<b>3f. E-Mail Address</b> Gordon.morrow@centrioenergy.com
<b>4a. Type of Establishment (Factory, mine, wholesaler, etc.)</b> Energy solutions provider		<b>4b. Principal Product or Service</b> Energy solutions	<b>5a. City and State where unit is located:</b> New Orleans, LA
<b>5b. Description of Unit Involved:</b> <b>Included:</b> See attached. <b>Excluded:</b> See attached			<b>6a. Number of Employees in Unit:</b> 11 <b>6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Check One:</b> <input type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about (Date) _____ (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
<b>8a. Name of Recognized or Certified Bargaining Agent (If none, so state)</b> None		<b>8b. Address:</b>	
<b>8c. Tel. No.</b>	<b>8d. Cell No.</b>	<b>8e. Fax No.</b>	<b>8f. E-Mail Address</b>
<b>8g. Affiliation, if any:</b>		<b>8h. Date of Recognition or Certification</b>	<b>8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)</b>
<b>9. Is there now a strike or picketing at the Employer's establishment(s) involved?</b> <b>No</b> <input checked="" type="checkbox"/> If so, approximately how many employees are participating? _____ (Name of Labor Organization) _____, has picketed the Employer since (Month, Day, Year) _____			
<b>10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)</b> None			
<b>10a. Name</b>		<b>10b. Address</b>	<b>10c. Tel. No.</b>
			<b>10d. Cell No.</b>
		<b>10e. Fax No.</b>	<b>10f. E-Mail Address</b>
<b>11. Election Details:</b> If the NLRB conducts and election in this matter, state your position with respect to any such election:			<b>11a. Election Type:</b> <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail
<b>11b. Election Date(s):</b> Earliest practicable		<b>11c. Election Time(s):</b> TBD	<b>11d. Election Location(s):</b> via USPS
<b>12a. Full Name of Petitioner (including local name and number):</b> UA Plumbers and Steamfitters Local Union 60		<b>12b. Address (street and number, city, State and ZIP code):</b> 3515 N. I-10 Service Rd. Metairie, Louisiana 70002	
<b>12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state):</b> United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada			
<b>12d. Tel. No.</b> (504) 885-3054	<b>12e. Cell No.</b>	<b>12f. Fax No.</b>	<b>12g. E-Mail Address</b> ralbin@uanet.org
<b>13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.</b>			
<b>13a. Name and Title:</b> Kathleen Bichner, Attorney		<b>13b. Address (street and number, city, State and ZIP code):</b> O'Donoghue & O'Donoghue, LLP, 325 Chestnut Street, Suite 600, Philadelphia, PA 19106	
<b>13c. Tel. No.</b> 267-737-9692	<b>13d. Cell No.</b> 267-255-5363	<b>13e. Fax No.</b>	<b>13f. E-Mail Address</b> kbichner@odonoghuelaw.com
<b>I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.</b>			
<b>Name (Print)</b> Kathleen Bichner		<b>Signature</b> 	<b>Title</b> Attorney
			<b>Date</b> 7/27/21

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**  
**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

## **ATTACHMENT**

### **5b. Description of Unit Involved:**

**Included:** All full-time and regular part-time operators/stationary engineers and maintenance employees employed by the Employer out of its location at 1661 Gravier St. New Orleans, LA 70112.

**Excluded:** All other employees, managers, office clericals, guards and supervisors as defined in the Act.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 15  
600 South Maestri Place – 7th Floor  
New Orleans, LA 70130-3413

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (504)589-6362  
Fax: (504)589-4069



Download  
NLRB  
Mobile App

July 28, 2021

**URGENT**

[gordon.morrow@centrioenergy.com](mailto:gordon.morrow@centrioenergy.com)  
Gordon Morrow, Director of Plant Operations  
CenTrio  
1661 Gravier Street  
New Orleans, LA 70112

Re: CenTrio  
Case 15-RC-280545

Dear Mr. Morrow:

Enclosed is a copy of a petition that UA Plumbers and Steamfitters Local Union 60 filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

**Investigator:** This petition will be investigated by Field Attorney ANDREW T. MIRAGLIOTTA whose telephone number is (504)321-9578. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Officer in Charge CHRISTOPHER ROY whose telephone number is (901)425-7236. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Required Posting and Distribution of Notice:** You must post the enclosed Notice of Petition for Election by **Wednesday, August 4, 2021** in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible.

If you customarily communicate electronically with employees in the petitioned-for unit, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

**Required Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on Monday, August 9, 2021**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon Central Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*List(s) of Employees:* The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

*Failure to Supply Information:* Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Responsive Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of an employer's Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in the employer's Statement of Position, such that it is received no later than **noon Central Time on Thursday, August 12, 2021.**

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **10:00 a.m. on Tuesday, August 17, 2021** via **ZOOM Hearing, New Orleans, LA**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required.

A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Other Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) If you desire a formal check of the showing of interest, you must provide an alphabetized payroll list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. Such a payroll list should be submitted as early as possible prior to the hearing. Ordinarily a formal check of the showing of interest is not performed using the employee list submitted as part of the Statement of Position.

**Voter List:** If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in cursive script that reads "M. Kathleen McKinney".

M. Kathleen McKinney  
Regional Director

MKM/cs

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that UA Plumbers and Steamfitters Local Union 60 has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 15-RC-280545 seeking an election to become certified as the representative of the employees of CenTrio in the unit set forth below:

**Included:** All full-time and regular part-time operators/stationary engineers and maintenance employees employed by the Employer out of its location at 1661 Gravier St., New Orleans, LA 70112  
**Excluded:** All other employees, managers, office clericals, guards and supervisors as defined in the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

**IF AN ELECTION IS HELD**, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

## ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (504)589-6362.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



## National Labor Relations Board





UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15



<b>CenTrio</b>  <b>Employer</b>  <b>and</b>  <b>UA Plumbers and Steamfitters Local Union 60</b>  <b>Petitioner</b>	<b>Case 15-RC-280545</b>
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**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 a.m. on **Tuesday, August 17, 2021** and on consecutive days thereafter until concluded at , ZOOM Hearing, New Orleans, LA, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.


YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, CenTrio must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Central time on **Monday August 9, 2021**. Following timely filing and service of a Statement of Position by CenTrio, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Central on **Thursday, August 12, 2021**.

**Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden.** Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed.

If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: July 28, 2021

 /by cs

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M. Kathleen McKinney  
Regional Director  
National Labor Relations Board  
Region 15  
600 South Maestri Place – 7th Floor  
New Orleans, LA 70130-3413

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<b>CenTrio</b>  <b>Employer</b>  <b>and</b> <b>UA Plumbers and Steamfitters Local Union 60</b>  <b>Petitioner</b>	<b>Case 15-RC-280545</b>
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**AFFIDAVIT OF SERVICE OF: Petition dated July 28, 2021, Notice of Representation Hearing dated July 28, 2021, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 28, 2021, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Kathleen Bichner, Attorney  
O'Donoghue & O'Donoghue, LLP  
325 Chestnut Street, Suite 600  
Philadelphia, PA 19106  
kbichner@odnoghuelaw.com

ralbin@uanet.org  
UA Plumbers and Steamfitters  
Local Union 60  
3515 N. I-10 Service Road  
Metairie, LA 70002

Gordon Morrow, Director of Plant Operations  
CenTrio  
1661 Gravier Street  
New Orleans, LA 70112  
gordon.morrow@centrioenergy.com

AVTranz Reporting via email  
@reporting@escribers.net

July 28, 2021

Date

Cristina Sanchez, Designated Agent of NLRB

Name

/s/ Cristina Sanchez

Signature

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlr.gov](http://www.nlr.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlrb.gov](http://www.nlrb.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

***Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.***

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

DO NOT WRITE IN THIS SPACE	
Case No. 15-RC-280545	Date Filed July 28, 2021

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b )			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards )			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
<b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER  
15-RC-280545

## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION  
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES \_\_\_\_\_)

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.  
\$ \_\_\_\_\_

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ \_\_\_\_\_

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ \_\_\_\_\_

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ \_\_\_\_\_

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ \_\_\_\_\_

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ \_\_\_\_\_

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ \_\_\_\_\_

H. Gross Revenues from all sales or performance of services (Check the largest amount)

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: \_\_\_\_\_

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at [www.NLRB.gov](http://www.NLRB.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from [www.NLRB.gov](http://www.NLRB.gov), the form will lock upon signature and no further editing may be made.**

**Required List:** In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

**Consequences of Failure to Submit a Responsive Statement of Position:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
15-RC-280545

Date Filed  
July 28, 2021

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

**The Employer**

**An Intervenor/Union**

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.**



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 15  
600 South Maestri Place – 7th Floor  
New Orleans, LA 70130-3413

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (504)589-6362  
Fax: (504)589-4069



Download  
NLRB  
Mobile App

July 28, 2021

**URGENT**

kbichner@odonoghuelaw.com  
Kathleen Bichner, Attorney  
O'Donoghue & O'Donoghue, LLP  
325 Chestnut Street, Suite 600  
Philadelphia, PA 19106

Re: CenTrio  
Case 15-RC-280545

Dear Ms. Bichner:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest and the requirement that you complete and serve a Responsive Statement of Position form in response to each timely filed and served Statement(s) of Position; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

**Investigator:** This petition will be investigated by Field Attorney ANDREW T. MIRAGLIOTTA whose telephone number is (504)321-9578. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Officer in Charge CHRISTOPHER ROY whose telephone number is (901)425-7236. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Showing of Interest:** If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within **2 business days**. If the originals are not received within that time the Region will dismiss your petition.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **10:00 a.m. on Tuesday, August 17, 2021 at Zoom Hearing, New Orleans, LA**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Posting and Distribution of Notice:** The Employer must post the enclosed Notice of Petition for Election by **Wednesday, August 4, 2021** in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

**Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the Employer is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Central Time on Monday, August 9, 2021**. The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

**Required Responsive Statement of Position (RSOP):** In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing issues raised in any Statement(s) of Position. The petitioner must file a complete, signed RSOP in response to all other parties' timely filed and served Statement of Position, with all required attachments, with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on Thursday, August 12, 2021**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*Failure to Supply Information:* Failure to supply the information requested by the RSOP form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Voter List:** If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

**Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site ([www.nlrb.gov](http://www.nlrb.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "M. Kathleen McKinney". The signature is written in a cursive style with a small star above the letter 'i' in "McKinney".

M. Kathleen McKinney  
Regional Director

MKM/cs

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)

cc: [ralbin@uanet.org](mailto:ralbin@uanet.org)  
UA Plumbers and Steamfitters  
Local Union 60  
3515 N. I-10 Service Road  
Metairie, LA 70002



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that UA Plumbers and Steamfitters Local Union 60 has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 15-RC-280545 seeking an election to become certified as the representative of the employees of CenTrio in the unit set forth below:

**Included:** All full-time and regular part-time operators/stationary engineers and maintenance employees employed by the Employer out of its location at 1661 Gravier St., New Orleans, LA 70112  
**Excluded:** All other employees, managers, office clericals, guards and supervisors as defined in the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

**IF AN ELECTION IS HELD**, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

## ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (504)589-6362.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



# National Labor Relations Board





**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15**



<b>CenTrio</b>  <b>Employer</b>  <b>and</b>  <b>UA Plumbers and Steamfitters Local Union 60</b>  <b>Petitioner</b>	<b>Case 15-RC-280545</b>
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**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 a.m. on **Tuesday, August 17, 2021** and on consecutive days thereafter until concluded at, Zoom Hearing, New Orleans, Louisiana, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, CenTrio must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Central time on **Monday, August 9, 2021**. Following timely filing and service of a Statement of Position by CenTrio, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Central on **Thursday, August 12, 2021**.

**Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden.** Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: July 28, 2021

  
\_\_\_\_\_/by cs

M. Kathleen McKinney  
Regional Director  
National Labor Relations Board  
Region 15  
600 South Maestri Place, 7th Floor  
New Orleans, LA 70130-3413

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<p><b>CenTrio</b></p> <p style="text-align: center;"><b>Employer</b></p> <p style="text-align: center;"><b>and</b></p> <p><b>UA Plumbers and Steamfitters Local Union 60</b></p> <p style="text-align: center;"><b>Petitioner</b></p>	<p><b>Case 15-RC-280545</b></p>
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**AFFIDAVIT OF SERVICE OF: Petition dated July 28, 2021, Notice of Representation Hearing dated July 28, 2021, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 28, 2021, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Kathleen Bichner, Attorney  
O'Donoghue & O'Donoghue, LLP  
325 Chestnut Street, Suite 600  
Philadelphia, PA 19106  
kbichner@odnoghuelaw.com

UA Plumbers and Steamfitters  
Local Union 60  
3515 N. I-10 Service Road  
Metairie, LA 70002

Gordon Morrow, Director of Plant Operations  
CenTrio  
1661 Gravier Street  
New Orleans, LA 70112  
gordon.morrow@centrioenergy.com

AVTranz Reporting via email  
@reporting@escribers.net

July 28, 2021

Date

CRISTINA Sanchez, Designated Agent of NLRB

Name

/s/ Cristina Sanchez

Signature

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlr.gov](http://www.nlr.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlr.gov](http://www.nlr.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

***Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.***

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

DO NOT WRITE IN THIS SPACE	
Case No. 15-RC-280545	Date Filed July 28, 2021

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b )			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards )			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any elec ion that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
<b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 15-RC-280545
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## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES \_\_\_\_\_)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at [www.NLRB.gov](http://www.NLRB.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from [www.NLRB.gov](http://www.NLRB.gov), the form will lock upon signature and no further editing may be made.**

**Required List:** In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

**Consequences of Failure to Submit a Responsive Statement of Position:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
15-RC-280545

Date Filed  
July 28, 2021

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

**The Employer**

**An Intervenor/Union**

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.**

OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
REGION 15

In the Matter of:

Centrio Energy South LLC, Case No. 15-RC-280545

Employer,

and

UA Plumbers and Steamfitters  
Local Union 60,

Petitioner.

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Place: New Orleans, LA (Via Zoom Videoconference)

Dates: August 17, 2021

Pages: 1 through 96

Volume: 1

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(602) 263-0885



UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15

In the Matter of:

CENTRIO ENERGY SOUTH LLC,

Employer,

and

UA PLUMBERS AND STEAMFITTERS  
LOCAL UNION 60,

Petitioner.

Case No. 15-RC-280545

The above-entitled matter came on for hearing, Zoom  
videoconference, pursuant to notice, before **ANDREW MIRAGLIOTTA**,  
Hearing Officer, at the National Labor Relations Board, Region  
15, 600 South Maestri Place 7th Floor, New Orleans, LA 70130-  
3413, on **Tuesday, August 17, 2021, 10:24 a.m.**



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A P P E A R A N C E S

On behalf of the Employer:

DEBORAH S.K. JAGODA, ESQ.  
WINSTON & STRAWN, LLP  
200 Park Avenue  
New York, NY 10166  
Tel. (212) 294-2617

On behalf of the Petitioner:

KATHLEEN BICHNER, ESQ.  
O'DONOGHUE & O'DONOGHUE, LLP  
325 Chestnut Street  
Suite 1600  
Philadelphia, PA 19106  
Tel. (267) 737-9692

I N D E X

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3	<b><u>WITNESS</u></b>	<b><u>DIRECT</u></b>	<b><u>CROSS</u></b>	<b><u>REDIRECT</u></b>	<b><u>RECROSS</u></b>	<b><u>VOIR DIRE</u></b>
4	Gordon Morrow	11				
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E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
<b>Board:</b>		
B-1 (a) through 1 (d)	6	6
B-2	7	7
B-3	8	9
B-4	9	9
B-5 (a)	61	64
B-5 (b)	61	64
<b>Employer:</b>		
E-1	17	17
E-2	18	18
E-3	42	43
E-4	76	77
E-5	78	78
<b>Petitioner:</b>		
P-1	72	Withdrawn
P-2	73	74
P-3	74	75

1                                    P R O C E E D I N G S

2                    HEARING OFFICER MIRAGLIOTTA:    The hearing will be in  
3                    order.    This is a formal hearing in the matter of CenTrio, case  
4                    number 15-RC-280545, before the National Labor Relations Board.  
5                    The hearing officer appearing for the National Labor Relations  
6                    Board is Andrew Miragliotta.

7                    All parties have been informed of the procedures at formal  
8                    hearings before the Board by service of a description of  
9                    procedures in certification and decertification cases with the  
10                  notice of hearing.    I have additional copies of this document  
11                  for distribution if any party wants more.

12                  Will counsel please state their appearances for the  
13                  record, for the Petitioner?

14                  MS. BICHNER:    Good -- good morning.    For the Petitioner,  
15                  Kathleen Bichner from the law firm of O'Donoghue & O'Donoghue,  
16                  LLP, 325 Chestnut Street, Suite 1600, Philadelphia,  
17                  Pennsylvania, 19106.

18                  HEARING OFFICER MIRAGLIOTTA:    And for the Employer?

19                  MS. JAGODA:    Deborah Jagoda, Winston & Strawn, 200 Park  
20                  Avenue, New York, New York, 10166.

21                  HEARING OFFICER MIRAGLIOTTA:    And are there any other  
22                  appearances?    Let the record show that there is no response.

23                  Are there any other persons, parties, or labor  
24                  organizations in the hearing room who claim an interest in this  
25                  proceeding?    And let the record show no response.

1 I now propose to receive the formal papers. They have  
2 been marked for identification as Board's Exhibit 1(a) through  
3 1(d), inclusive, Exhibit 1(d) being an index and description of  
4 the entire exhibit. The exhibit has already been shown to all  
5 parties. Are there any objections to the receipt of this  
6 exhibit into the record?

7 MS. BICHNER: None from the Petitioner.

8 MS. JAGODA: None from the Employer.

9 HEARING OFFICER MIRAGLIOTTA: Hearing no objections, the  
10 formal papers are received in evidence.

11 **(Board Exhibit Number 1(a) through 1(d) Received into Evidence)**

12 HEARING OFFICER MIRAGLIOTTA: Are there any motions to  
13 intervene in these proceedings to be submitted to the hearing  
14 officer for ruling by the Regional Director at this time? The  
15 Hearing Officer hears no response.

16 Are the parties aware of any employers or labor  
17 organizations that have an interest in this proceeding?

18 MS. BICHNER: The Petitioner is not.

19 MS. JAGODA: The Employer is not.

20 HEARING OFFICER MIRAGLIOTTA: The Hearing Officer hears no  
21 response in that regard.

22 Are there any pre-hearing motions, for example, motions to  
23 quash subpoenas, made by any party that need to be addressed at  
24 this time?

25 MS. BICHNER: None from the Petitioner.

1 MS. JAGODA: None from the Employer.

2 HEARING OFFICER MIRAGLIOTTA: Let the record show no  
3 response.

4 The parties to this proceeding have agreed or will agree  
5 to stipulate to a document which is marked as Board Exhibit 2.  
6 That exhibit contains a series of stipulations, including,  
7 among other items, that the Petitioner is a labor organization  
8 within the meaning of the Act, that there is no contract bar,  
9 and that the Employer meets the jurisdiction -- jurisdictional  
10 standards of the Board.

11 Are there any objections to the receipt of Board Exhibit  
12 2, which has been shown to all parties at this time?

13 MS. BICHNER: None from the Petitioner.

14 MS. JAGODA: None from the Employer.

15 HEARING OFFICER MIRAGLIOTTA: Hearing no objection, Board  
16 Exhibit 2 is received in evidence.

17 **(Board Exhibit Number 2 Received into Evidence)**

18 HEARING OFFICER MIRAGLIOTTA: Are there any petitions  
19 pending in other regional offices involving other facilities of  
20 the Employer?

21 MS. BICHNER: None --

22 MS. JAGODA: I don't -- not to my knowledge.

23 MS. BICHNER: Same from the Petitioner.

24 HEARING OFFICER MIRAGLIOTTA: All right, and the parties  
25 are reminded that, prior to the close of the hearing, the

1 hearing officer will solicit the parties' positions on the  
2 type, date, time, and locations of the election, the  
3 eligibility period. But we will not permit litigation of those  
4 issues, save for the fact that we are litigating the manual  
5 versus mail ballot issue as we go forward. I will also inquire  
6 as to the need for foreign language ballots and notices of  
7 election. Please have that information relevant and ready with  
8 respect to the -- those available issues.

9 The parties have been advised that the hearing will  
10 continue from day to day as necessary until completed unless  
11 the Regional Director concludes that extraordinary  
12 circumstances warrant otherwise.

13 The parties are also advised that, upon request, they  
14 shall be entitled to a reasonable period at the close of the  
15 hearing for oral argument. Post-hearing briefs shall be filed  
16 only upon special permission of the Regional Director. In  
17 addition, a party may offer into evidence a brief memo of  
18 points and authorities, case citations, or other legal  
19 arguments, during the course of the hearing before the hearing  
20 closes.

21 We'll move on to statement of position. The Employer has  
22 completed, and I have marked for identification as Board  
23 Exhibit 3, a statement of position in this matter. Board  
24 Exhibit 3 also includes the Employer's attachments to the  
25 statement of position, the Employer's commerce questionnaire,

1 and the Employer's certificate of service of those documents.

2 Are there any objections to the receipt of Board Exhibit 3  
3 into the record?

4 MS. BICHNER: Other than the Petitioner's general  
5 objection to the Employer's statement of position and  
6 presentation of its argument in this case that it will maintain  
7 just for sake of the record, otherwise, no objection to the  
8 admission as an exhibit.

9 HEARING OFFICER MIRAGLIOTTA: And the Employer, any  
10 objection to the admission of that exhibit?

11 MS. JAGODA: No objection.

12 HEARING OFFICER MIRAGLIOTTA: Okay. We'll just do it now.

13 **(Board Exhibit Number 2 Received into Evidence)**

14 HEARING OFFICER MIRAGLIOTTA: The -- the Union has also  
15 completed, and I have marked for identification as Board  
16 Exhibit 4, a statement of position in this matter. Board  
17 Exhibit 4 also includes the certificate of service and  
18 appropriate attachments.

19 Are there any objections to the receipt of this exhibit  
20 into the record?

21 MS. BICHNER: No objection from the Petitioner.

22 MS. JAGODA: No objection from the Employer.

23 HEARING OFFICER MIRAGLIOTTA: Hearing no objection, Board  
24 Exhibit 4 is received.

25 **(Board Exhibit Number 4 Received into Evidence)**



1 HEARING OFFICER MIRAGLIOTTA: The Regional Director has  
2 already directed that the following issue will be litigated in  
3 this proceeding. And that is specifically the issue of whether  
4 it is appropriate to hold a manual election in this matter or  
5 whether it would be better directed as a mail-ballot election.

6 The Regional Director has decided that the following  
7 issues will not be litigated in this proceeding. And that is  
8 the issue of whether or not that one particular individual is a  
9 supervisor. That will be a matter where the parties can, you  
10 know -- assuming we -- we hold the election, that the parties  
11 can litigate after the election, that they can vote, subject to  
12 challenge, on that issue. And then, we can litigate that  
13 after, if necessary.

14 Are there any other issues before we move on to the  
15 presentation of evidence?

16 MS. BICHNER: None from the Petitioner.

17 MS. JAGODA: No -- not at this time, no.

18 HEARING OFFICER MIRAGLIOTTA: Okay, and so the Employer,  
19 you may please present your first witness.

20 MS. JAGODA: Okay. For our first witness, we call Gordon  
21 Morrow. I believe he's on.

22 MR. MORROW: Yes, I am on.

23 MS. JAGODA: Okay.

24 HEARING OFFICER MIRAGLIOTTA: All right. Mr. Morrow,  
25 could you please raise your right hand?



1 Whereupon,

2 **GORDON MORROW**

3 having been duly sworn, was called as a witness herein and was  
4 examined and testified, telephonically as follows:

5 HEARING OFFICER MIRAGLIOTTA: And can you please state  
6 your name and spell it for the record?

7 THE WITNESS: My name is Gordon Morrow, G-O-R-D-O-N  
8 M-O-R-R-O-W.

9 HEARING OFFICER MIRAGLIOTTA: Okay, and Petitioner, you  
10 may call your first witness.

11 **DIRECT EXAMINATION**

12 Q BY MS. JAGODA: Mr. Morrow, are you employed by CenTrio  
13 Energy South, LL -- LLC?

14 A Yes, I am.

15 Q And how -- just for the record, I just want to clarify  
16 that, going forward, if I refer to the company, I'll be  
17 referring to the Employer, CenTrio Energy South, LLC. How --  
18 how long have you been with the company?

19 A I've been with the company since November of 2016.

20 Q And in what positions?

21 A I started out as the director of operations. I was then  
22 promoted to general manager. And I am currently -- my official  
23 title is senior director of operations.

24 Q And what does CenTrio Energy South, LLC do?

25 A We provide district energy services to the University



1 Medical Center in New Orleans, both chilled water and steam, to  
2 hospitals and other customers.

3 Q And what are your responsibilities?

4 A Right now, I'm the interim general manager for the -- for  
5 the plant. I am responsible for operations, maintenance,  
6 budgets, sales, marketing. Anything to do with operations,  
7 that comes under my purview.

8 Q And do you have respons -- (audio interference)  
9 operational guidance?

10 A Yes, we do, I do.

11 Q Does the company have any operating protocols with respect  
12 to COVID-19 safety?

13 A Yes, we do. We follow -- generally, we follow CDC  
14 guidelines for COVID safety, including daily questioning,  
15 questionnaires, both -- all employees, contractors, visitors,  
16 must follow our -- must fill in a safety -- or a COVID  
17 questionnaire that we track the responses to. That  
18 questionnaire is then forwarded to a person to monitor. We  
19 follow -- we require masks. We require social disc --  
20 distancing. We have protocols in place for people who either  
21 test positive or exhibit symptoms for COVID. And we also have  
22 contract tracing, also, close contact guidelines, for if  
23 somebody comes into close contact with someone with either  
24 symptoms or has tested positive for COVID.

25 Q And do you have protocols for cleaning, as well?



1 A Yes, we do. We have -- every day, every -- the -- it has  
2 been stipulated that everybody should be cleaning their  
3 stations, personal stations, using cleaning and sanitizers that  
4 are 99.9 percent effective against COVID. We have -- three  
5 times a week, we have a custodial services that comes and  
6 cleans the offices and the control rooms. If there is a  
7 situation where we feel we need additional cleaning, we have a  
8 contract with Servpro to come in and do cleaning and sanitizing  
9 within CDC guidelines. So that is done when called.

10 Q What is Servpro?

11 A Servpro is an industrial hygiene company that -- that --  
12 they specialize in cleaning and sanitizing businesses, both for  
13 environmental spills or health safety.

14 Q And you -- you had mentioned daily cleaning of  
15 workstations; how frequently are -- is -- are the control rooms  
16 cleaned?

17 A Control rooms are cleaned at the end of each shift, so  
18 twice a day. Each shift is responsible for cleaning and wiping  
19 down the control room when they leave. So all the -- all the  
20 control rooms are cleaned twice a day.

21 Q And are there -- is -- is there signage -- are there  
22 signage protocols, as well?

23 A Yes, there is. We have signs on the doors outlining our  
24 protocols for visitors, contractors, and employees. We have QC  
25 codes for -- we have a system whereby people can check in using

1 QC -- QC codes with their cell phones, answering  
2 questionnaires. We have apps on the employees' where they  
3 answer and they do daily questionnaires for COVID. And we also  
4 have, for those people who -- who do -- who do not have cell  
5 phones capable of either the app or scanning a QC code, we have  
6 manual paper systems.

7 Q Okay, and --

8 A -- for -- for the questionnaires.

9 Q -- employees in the company's New Orleans facilities,  
10 do -- have -- since the beginning of the pandemic, or -- or  
11 actually, let me -- at the current time, do they work  
12 virtually? Or do they work in person?

13 A The operations group and the maintenance group have to  
14 work in person. There is no -- the -- they cannot operate this  
15 equipment without being there. The office personnel have the  
16 option to work virtually at their discretion if they feel they  
17 need to.

18 Q Now, with respect to the -- the operations group, you've  
19 heard the description of the bargain for -- the petition for a  
20 unit. And I -- I can read that to you to refresh your  
21 recollection. In the -- the stipulation, it says "all full-  
22 time and regular" -- this is the included. "All full-time and  
23 regular part-time operators/stationary engineers, and  
24 maintenance employees, employed by the employer in its New  
25 Orleans district energy system based at 1661 Gravier Street,

1 New Orleans, Louisiana, 70112". The -- it says the -- the unit  
2 description says "based at 1661 Gravier Street"; where do the  
3 employees in the petition for a unit work?

4 A They work at two locations. One is at our chiller plant  
5 at the address you noted, 1661 Gravier Street, and also at our  
6 boiler plant, or our thermal steam plant; either name applies.  
7 It is -- its address is 2104 Gravier Street, also in New  
8 Orleans.

9 Q Okay, and is the chiller plant also referred to as a  
10 chilled water plant?

11 A Yes, it is.

12 Q Okay, and how is it decided where a particular employee in  
13 the petition for a unit works?

14 A The -- the employees are group -- are grouped into four  
15 separate shifts. Each shift is three people. The shift meets  
16 at the beginning of the day, and they decide internally amongst  
17 their shift who is going to be assigned. One person will be  
18 assigned solely to the chiller plant. One person will be  
19 assigned to the -- solely to the boiler plant. And then, the  
20 third person will be what we call a rover, a person that will  
21 move back and forth between the two plants, depending on the  
22 situation, as needed.

23 Q Okay, and what hours do the two plants operate?

24 A The plants operate 24 hours a day, 7 days a week, 365 days  
25 a year, as we serve a level-1 trauma center in the New Orleans

1 area.

2 Q And how many -- what are -- what are the hours that  
3 employees work?

4 A Each shift works a 12-hour day. It's a rotating schedule  
5 boarding between -- rotating between night -- days and nights,  
6 often called the DuPont schedule. But each shift rot- -- it's  
7 a four-week pattern. They work days. Then, they're off a set  
8 number of days. Then, they'll work nights and they're off a  
9 set number of days. Then, they'll work days again. And then,  
10 they'll work nights one last time, and then they will be off  
11 for -- in that four-week period, each shift is off for a set of  
12 continuous days.

13 Q Okay, and I think you had mentioned that there are three  
14 people on a shift?

15 A That's correct.

16 Q So how many employees in the petition for a unit are at  
17 work at any particular time?

18 A There is three people at any one time, three to four  
19 people, depending on -- the day shift may have up to four  
20 people, sometimes. But most of the time, it's only three  
21 people working per shift.

22 Q Okay. I -- I'd like to show you what has been marked as  
23 Employer Exhibit 1 for identification. I'll share my screen;  
24 let me open it first. Can you see that?

25 A Yes, I can.



1 Q Okay. Do you recognize this document?

2 A Yes, I do.

3 Q What is it?

4 A This is suggested election protocols from the National  
5 Labor Relations Board specifically addressing COVID situations.

6 MS. JAGODA: I move for admission of Employer Exhibit 1 in  
7 evidence.

8 HEARING OFFICER MIRAGLIOTTA: Does the Petitioner have any  
9 objection?

10 MS. BICHNER: No objection.

11 HEARING OFFICER MIRAGLIOTTA: Exhibit -- Employer's  
12 Exhibit 1 is received.

13 **(Employer Exhibit Number 1 Received into Evidence)**

14 Q BY MS. JAGODA: One second. All right. What is Centrio  
15 Energy South, LLC's position as to whether it is willing to  
16 commit to follow the protocols in Employer Exhibit 1?

17 A We are fully committed to following these protocols to the  
18 letter. We have begun the -- we have designated two areas that  
19 would meet these protocols. We have begun the layout of those  
20 areas. We have done the discussions. We know how we would  
21 stage people. We know where we would be placing tables, where  
22 we would be placing booths, election, you know -- voting boxes  
23 where the officials will be situated.

24 And we have reviewed our protocols and added additional  
25 protocols for cleaning, if necessary. For example, prior to



1 the elections, we would be cleaning the area. We could start  
2 using Proserve (sic) to clean the area before and after the  
3 election times. And -- and in that space, we would make sure  
4 that we are meeting these protocols to the T.

5 Q Now, in terms of for planning for layouts of where a table  
6 would be, I'm going to now share my screen to show you  
7 Employer's Exhibit 2 for identification. I -- can you see  
8 that? I -- I -- oh, no, I didn't share yet. Apologies. Share  
9 screen. Can you see Employer's Exhibit 2 for identification?  
10 It's two pages.

11 A Yes, I can see it.

12 Q The first page and the second page. And do you recognize  
13 Employer's Exhibit 2?

14 A Yes, that is the document I created to -- to lay out the  
15 election day area.

16 MS. JAGODA: Okay. I move for admission of Employer's  
17 Exhibit 2 in evidence.

18 HEARING OFFICER MIRAGLIOTTA: Does the Petitioner have any  
19 objection?

20 MS. BICHNER: No objection.

21 HEARING OFFICER MIRAGLIOTTA: Employer's Exhibit 2 is  
22 received into evidence.

23 **(Employer Exhibit Number 2 Received into Evidence)**

24 Q BY MS. JAGODA: Okay. I -- let me just adjust this a  
25 little bit so that you can -- well, actually, I guess I have to

1 make it a little smaller. Could you explain what we're looking  
2 at on the first page of Employer's Exhibit 2?

3 A This first page, it is the second-floor administrative  
4 area of the chiller plant. The areas that you're looking at is  
5 the large open space in the middle of the administrative  
6 offices. Basically, the idea is that, to meet the NLRB  
7 guidelines, we have a separate entrance from an exit. We've  
8 got an area where we -- the voters can be staged such that they  
9 would be correctly social distanced.

10 We have tables for observers that would remain socially  
11 distanced and with plexiglass guards. We have a table for the  
12 NLRB agent that is plexiglassed and also distanced from both  
13 the voting booth, and the ballot box, and the observer table.  
14 We have a booth situated where the -- the -- the booth that  
15 would come as part of this election process would be set up.  
16 We have the ballot box. And then, we have the exit where  
17 the -- the voters would be leaving in a separate exit from the  
18 entrance.

19 Q And you had talked about a staging area for the voters,  
20 and what --

21 A Yes.

22 Q What did you mean by that?

23 A The -- where the entrance -- there's a green arrow that  
24 comes down. There's a long hallway that comes from the plant  
25 where the voters would be staged, where you have your cursor

1 currently situated. That hallway is about 30 feet long, 30 to  
2 40 feet long. And that's where the -- the operators would be  
3 staged, socially distanced properly, prior to going into the --  
4 the election area.

5 Q And would -- would -- would any -- the Employer be willing  
6 to do anything else to keep the number of people waiting to  
7 vote to be limited?

8 A Well, the way we have it situated is we're going to  
9 have -- our -- our suggestion is to have two voting times, one  
10 where the voting times would be situated such that two out of  
11 the four shifts would be present. And the -- that would --  
12 that would limit the number of people that vote on that  
13 particular time. And the -- we would limit -- each shift, one  
14 shift at a time, would come into that staging area. And that  
15 shift is only three people. That -- so you would have one  
16 person in the voting area. You would have one person staged  
17 outside in the hallway, and then a second person staged at the  
18 door to the hallway. So everybody will be much more than six  
19 feet apart, and you would only vote one person at a time.

20 When that shift is done, they would go and relieve the  
21 shift that is on -- that is coming off. And the shift that is  
22 coming off would -- again, there'd be three people, at the  
23 most, four. And they would, again, be staged accordingly,  
24 social distanced, down the hallway, with one person at a time  
25 voting.

1 Q I just -- just want to clarify. At the Employer's  
2 proposed time for the election, is that a time when one shift  
3 is ending their workday and another shift is starting their  
4 workday?

5 A That is correct. Our time, our proposed time, is between  
6 6:30 and 7:30. Our shifts are from 7 a.m. to 7 p.m., and then  
7 also 7 p.m. to 7 a.m. So during this time, we'd be at a -- at  
8 what we call a relief time where one shift is relieving a  
9 second shift. And then, that's when this vote would be held  
10 so that -- such that we could get two shifts with one -- one  
11 voting period.

12 Q And would there be any sort of staggered relief from work  
13 so that people don't all line up at the same time? Is that  
14 what -- what -- I'm just trying to understand what you were  
15 saying.

16 A Yeah, so the shift coming on will be there at 6:30. All  
17 right, so they would be voting between 6:30 and 7:30, so the  
18 shift coming on would be at 6:30. The idea is that it would  
19 take no more than half an hour for three people to vote; it  
20 should take much less than that. Then, they would leave and go  
21 relieve the crew that is currently on. And the crew that is  
22 currently on would vote between 7 and 7:30.

23 Q Were --

24 A Thus, you would be able to stage the -- the -- the  
25 participants in the election.

1 Q Yeah, and would the Employer also be will -- willing to  
2 release from work duties at staggered times people who are on  
3 shift?

4 A Absolutely, yes.

5 Q Okay. Let me direct your attention now to the second page  
6 of Employer's Exhibit 2. What are we -- what are we --

7 MS. JAGODA: I may need to make this one just a little  
8 smaller. Can -- can -- can everybody, all the parties, see  
9 that? Should I make it a little larger?

10 HEARING OFFICER MIRAGLIOTTA: The Hearing Officer can see  
11 it.

12 MS. BICHER: I can see it. Thank you.

13 MS. JAGODA: Okay. I'm sorry, Hearing Officer. Could --  
14 did you say you could see it?

15 HEARING OFFICER MIRAGLIOTTA: I can, yes. I can see it.

16 MS. JAGODA: Okay, all right.

17 Q BY MS. JAGODA: Mr. Morrow, could you explain what we're  
18 looking at on the second page of Employer Exhibit 2?

19 A Yes. This is the first floor of our boiler plant at 2104  
20 Gravier. Yeah, this floor is basically an indoor parking area  
21 where we park trucks and vehicles. Inside of this garage,  
22 there's a rollup door. Just slightly above the sign that says  
23 "enter", just to the right of the green arrow that we've marked  
24 "enter", there's a manned door there. This area is wide open.

25 Q Okay. Let me stop -- let -- let me stop you for a moment.

1 I'm -- I'm pointing with my cursor; is this where the rolled-up  
2 door is?

3 A Yes, that's the rollup door.

4 Q Between these two --

5 A Um-hum.

6 Q -- lines at the bottom? Okay.

7 A Um-hum, correct.

8 Q Okay. Go -- uh-huh?

9 A That rollup door, we open and close it as needed to move  
10 vehicles in and out. In this situation, we could open that  
11 door up to improve ventilation through that area. That area is  
12 quite large, easily accessible. We could easily have observer  
13 tables, the NLRB table, all with plexiglass dividers. We could  
14 easily accommodate a ballot box and a voting booth that are  
15 social distanced.

16 We can stage people outside of that area as they come in,  
17 and they would leave through a separate exit that also leads to  
18 the outdoors. We could have, easily have, a pre-election and  
19 post-election meeting area that is separate from but in -- in  
20 visual contact with the voting area. We could have large  
21 cooling fans. This is also an area that we could easily treat  
22 with ozone for sterilization.

23 Q You had referred before to the daily screening process  
24 for --

25 A Yes.

1 Q -- people coming onto -- into the New Orleans facilities.

2 A Yes.

3 Q In -- in the last 14 days, how many, if any, employees in  
4 the petition for a unit have tested positive for COVID-19 or  
5 exhibited characteristic symptoms of COVID-19?

6 A One, one person.

7 Q Okay. When was that last person -- when was that person  
8 last at work, and when did he start showing symptoms or test  
9 positive?

10 A He was last at work -- I'm pulling up a calendar here. He  
11 was last at work August 12th. And he showed symptoms August  
12 16th, yesterday, which, he did a test and it came back  
13 positive.

14 Q Okay, so he was not at work between August 12th and August  
15 16th, yesterday?

16 A No, he -- no, he was not. He's on his seven-day rotation  
17 off.

18 Q Okay, and what protocols has CenTrio follow -- followed  
19 since being notified of his symptoms and being test -- and  
20 testing positive?

21 A We have followed our close contact tracing protocols. We  
22 have contacted everybody that has been, that could have been,  
23 contacted by that person. In the last three to five days, we  
24 have contacted those people. We have asked that they be  
25 tested. This particular person will be self-isolating for a

1 minimum of ten days. He will be eligible to come back the  
2 26th, but he will self-isolate for ten days. And provided that  
3 he has no symptoms in the 24 hours previous to the time he  
4 returns to work, he can return to work. Anybody that tests  
5 positive, as part of the contact tracing, must self-isolate for  
6 ten days.

7 Q And has anyone else tested positive?

8 A To date, no.

9 Q Okay. Through the contact tracing process, have you  
10 identified anyone else not in the -- anyone who -- else who has  
11 exhibited symptoms or tested positive?

12 A Yes, we have -- we have identified one person who is not  
13 part of the -- part of the group.

14 Q Not part of the petition for a unit?

15 A Correct.

16 Q Okay, and what has been done with respect to that person?

17 A That person has been notified. They have elected to not  
18 test for COVID. And as such, as per our protocol, they will  
19 self-isolate for 14 days since the outset of the symptoms.

20 Q Okay, and --

21 A So he will be eligible to return to work the 30th of  
22 August.

23 Q Meaning August 30th? Okay.

24 A Um-hum.

25 Q Now, with respect to the other people who were asked to be

1     tested, is there any plan for self-isolation for those people  
2     while -- while -- and even if they are not -- do not test  
3     positive?

4     A     Yes, our protocol is that they would still isolate for ten  
5     days. And then, if they -- as long as they are symptom-free  
6     for the 24 hours prior to returning to work, they can return to  
7     the office. Those that can work remotely will continue to work  
8     remotely for those ten days.

9     Q     Um-hum, and when -- does that -- does that group include  
10    anybody in the petition for a unit?

11    A     Yes, it does. It includes the shift that this person was  
12    on, and it also includes the relief shift that this person --  
13    that relieved this person.

14    Q     And --

15    A     All -- we do have protocols for social distancing and  
16    masking in the control room. But out of an abundance of  
17    caution, we have contacted everybody.

18    Q     And when is that group expected to be able to return to  
19    work?

20    A     The -- ten days from the 12th, so that would be the 23rd.

21    Q     Of August?

22    A     Of August, yes.

23    Q     Okay, and when you said there are protocols for masking  
24    and -- and social distancing in the control room, could --  
25    could you explain what those protocols are?

1     A     We require -- everybody who is in the control rooms and/or  
2     the offices -- that they remain masked and -- and social  
3     distanced. We have areas in the office where people can --  
4     there's enough space in the offices, all of our offices, so  
5     people can maintain social distance. We have markings on the  
6     floor to remind people to remain social distanced.

7             So if somebody is in the office, if they're in their own  
8     space, we do not require masking. But if you come outside of  
9     that space, your own space, you must be masked and remain  
10    social distanced. Another thing, that we do not allow visitors  
11    and contractors in the control rooms where our operators  
12    typically work. Those -- those control rooms and those areas  
13    are off limits to people who are not employees.

14   Q     Um-hum. The -- is there -- what are the control rooms?

15   A     The control rooms are the areas where the computers  
16    reside, the control computers reside, where the operators can  
17    operate the equipment remotely from those control rooms, where  
18    they -- all of the what we call SCADA, which is supervisor  
19    control and data acquisition, comes to that control room. And  
20    those devices are called HMI, human-machine interfaces. That's  
21    where the operators do the process control. They set  
22    pressures. They set temperatures. They control the flows.  
23    They control the equipment from those control rooms.

24   Q     And is it possible -- what -- what is -- what is the  
25    ability within the control room having to be social distancing?

1     A     The desks are -- are set up to where the -- the areas  
2     where the operators can look at the computers, there can be two  
3     operators in that control room. There is a desk that divides  
4     the two -- or a tabletop that divides the two operators. They  
5     are more than six feet apart, and they still have their masks  
6     on. So there is plenty of space for two people to be in these  
7     control rooms. The control rooms are typically 20 to 25 feet  
8     across by anywhere between 30 and 40 feet long.

9     Q     Okay. Now, other than the -- the contact tracing and  
10    self-isolations, is there anything else that the company has  
11    done in response to the -- the testing positive of the employee  
12    in the petition for a unit?

13   A     As we always do, if somebody has tested positive that  
14   was -- had -- had been in the offices within the three to five  
15   days of that test, we call Servpro in, and they clean and  
16   sterilize those rooms. And that includes all offices,  
17   bathrooms, common areas, and the control rooms.

18   Q     Okay. In the last 14 days, how many, if any, other  
19   employees in the petition for a unit have reported that they  
20   are awaiting the results of a COVID-19 test?

21   A     To date, none.

22   Q     Okay. In the last 14 days, how many, if any, other  
23   employees in the petition for a unit have reported having  
24   contact with someone who tested positive for COVID-19 in the  
25   previous 14 days?

1 A Two that I know of.

2 Q In the petition for a unit?

3 A In the -- outside of the petition for a unit. Within the  
4 petition for a unit, only one person has -- well, there's one  
5 person that's tested positive inside the petition for a unit in  
6 the last 14 days.

7 Q Okay, and is there anybody in the petition for a unit  
8 who had -- other -- other than the one individual who had --  
9 who actually tested positive, is there anybody else in the  
10 petition for a unit who has reported, in the last 14 days,  
11 having had contact with someone who tested positive for COVID-  
12 19 in the previous 14 days?

13 A No. Outside of that one person, no.

14 Q Okay. Now, we'll talk about people not in the petition  
15 for a unit.

16 A Okay.

17 Q You had already identified somebody who -- who was -- who  
18 was identified through contact tracing. So let's put that  
19 person aside. There -- are there any other -- I think you said  
20 something about two people in the -- in the not -- outside of  
21 the petition for a unit. What was -- what were those two  
22 people? Were those two people who had tested positive  
23 themselves and who had been in the plant for -- for -- during  
24 the last 14 days? Or -- or were you thinking of something  
25 else?

1 A No, we have one person who was in the offices but not in a  
2 control room that tested positive. They had not been showing  
3 symptoms, but they tested positive over a weekend, and they did  
4 not come in. And then, we have a temp controls -- he's a  
5 temporary controls person. He has -- he -- he was in close  
6 contact with someone who had tested positive. He self-isolated  
7 and has subsequently tested positive, also. But during the  
8 time that he was in the plant and in the control room, he had  
9 not shown any symptoms, nor had he tested positive.

10 Q So did either of these individuals, the person who was  
11 in -- who -- these -- either of these two individuals, did  
12 they, either of them, have nonsocially distant -- distanced  
13 contact with members of the petition for a bargaining unit  
14 during the last 14 days?

15 A No.

16 Q Okay. Just turning the light back on. Hang on, please.  
17 Sorry, automatic lights.

18 How many, if any, other individuals not in the petition  
19 for a unit who were present at the company's New Orleans  
20 facilities at some point during the last 14 days have reported  
21 being in contact with someone who exhibited characteristic  
22 symptoms of COVID-19 in the previous 14 days or are -- or are  
23 awaiting a COVID-19 test?

24 A Just those two that I know of.

25 Q Okay. Is there anybody else who has reported being in

1 contact with someone?

2 A Outside of all the people that we've already talked about,  
3 no.

4 Q Okay. Nobody in finance?

5 A There might be one person. Again, I -- the -- the person  
6 who could best answer that would be Tatjana, our HR person.  
7 But as far as I know, there -- there might be one more person.  
8 He's in finance, but again, I don't know that he's been within  
9 the last 14 days. I can't confirm -- I do not know that off  
10 the top of my head.

11 Q And when you say Tatjana, are you referring to Tatjana  
12 Zunjic, the -- in human resources?

13 A Yes. We try to -- we try to follow HIPAA regulations to  
14 where, Tatjana, she's the keeper of all these records. And she  
15 informs those of us in management, who make the schedule, if  
16 there is somebody that has to be socially distanced. But  
17 outside of that, we try to maintain our HIPAA, you know -- stay  
18 within HIPAA guidelines for health information privacy.

19 Q I have just -- just a couple of more questions for you.  
20 Why does CenTrio believe that a manual, in-person election can  
21 be conducted safely?

22 A Number one, we follow all of the CDC guidelines for safe  
23 workplace for COVID, their protocols, including cleaning,  
24 social distancing. We can accomplish all of the guidelines as  
25 stipulated by the National Labor Relations Boards for the



1 election site. We have cleaning. We can sterilize. We have  
2 ability to social distance. We have ability to set up  
3 plexiglass screenings. We can do it safely. The -- but also,  
4 out big concern is that we want to make sure -- in addition to  
5 that, there's sufficient time between now, this current  
6 outbreak, and when the elections would be held that everybody  
7 could return to work safely within our guidelines and  
8 protocols. We think that an in-person vote is better. It's  
9 simpler. It's less complicated. We can do it in such a manner  
10 that makes it easier for everybody to participate. We feel  
11 that the ratio of participation will be higher with an in-  
12 person vote rather than a mail-in.

13 Q I think you just answered my last -- my last question, as  
14 well. My previous question was about safety. My last  
15 question --

16 A Yes.

17 Q -- was why -- why is it does CenTrio prefer that the  
18 election be in-person rather than through mail-in ballot?

19 A It's simpler. It's less complicated. The people will be  
20 there. There'll be -- there's an incentive to -- to  
21 participate. We're making it easy to participate, so the ratio  
22 will be higher, of participation. And the big thing, it's just  
23 much simpler and less complicated.

24 MS. BICHNER: I'm going to object here. I'm going to  
25 object here. You know, I think we -- we've gotten the point.

1 But I'm going to object based on relevance, personal knowledge.  
2 And I think we're getting into legal arguments here, which is  
3 inappropriate for this witness. But most principally,  
4 knowledge, I don't think that the Employer has established Mr.  
5 Morrow's experience in running elections that are held by the  
6 National Labor Relations Board.

7 HEARING OFFICER MIRAGLIOTTA: Ms. Jagoda, any response to  
8 that?

9 MS. JAGODA: I think -- since one of the factors to be  
10 considered is the preferences of the parties, I think it's  
11 important to have on the record the preferences of the parties  
12 and the reason for those preferences.

13 HEARING OFFICER MIRAGLIOTTA: Okay. I'll allow it to  
14 continue, but -- but try to keep it confined to just, you know,  
15 the -- the Employer's opinion without regards to speculating as  
16 to, you know, the -- the difficulty level for the Board,  
17 basically.

18 MS. JAGODA: Um-hum.

19 Q BY MS. JAGODA: Is there anything that you have to add  
20 that you haven't already said, Mr. Morrow?

21 A No, ma'am.

22 MS. JAGODA: Okay. I -- I have no further questions for  
23 Mr. Morrow.

24 HEARING OFFICER MIRAGLIOTTA: Before we move to any cross-  
25 examination, I -- I wanted to ask two clarifying questions.

1 And actually, it would help -- I -- I was going to ask you  
2 to -- to stop sharing the screen, but I actually need  
3 Employer's Exhibit 2 for one of the questions, which is --

4 Mr. Morrow, just in looking at Employer's Exhibit 2, can  
5 you give us an idea of the scale of that exhibit? So for  
6 instance, you know, if you're looking at -- at the screen right  
7 now, you know, what -- what type of distance is between a NLRB  
8 agent with plexiglass and observer tables with plexiglass  
9 shields? Like, how far are those two tables apart on that map?

10 THE WITNESS: That's -- if you'll notice the -- the -- the  
11 dotted lines that crisscross the area?

12 HEARING OFFICER MIRAGLIOTTA: Um-hum, yes.

13 THE WITNESS: All right. Those dotted lines designate  
14 what we call support lines, you know, the -- the structural  
15 supports in that garage. And those two circles are  
16 approximately 50 feet apart. All right, so it is very  
17 conceivable that you -- that the tables between the observer  
18 and the NLRB agent would be much greater than, even, ten feet.

19 HEARING OFFICER MIRAGLIOTTA: And as a follow-up question,  
20 the -- the rooms that are marked in both page 1 and page 2 of  
21 Employer's Exhibit 2, do those rooms have windows?

22 THE WITNESS: No, there are no windows.

23 HEARING OFFICER MIRAGLIOTTA: Okay, and do they have  
24 cameras that are observing those rooms?

25 THE WITNESS: There are cameras that are observing the

1 first floor. There is a camera that observes that space on  
2 the -- the -- the -- page 1, the second floor of the chiller  
3 plant, there are no cameras that observe that space.

4 HEARING OFFICER MIRAGLIOTTA: And with regards to the --  
5 the -- the camera that does observe the first floor, could a  
6 camera -- could that camera be blocked or obscured on the day  
7 of an election?

8 THE WITNESS: Yes, it can.

9 HEARING OFFICER MIRAGLIOTTA: Okay. As one final thing --  
10 And Ms. Jagoda, if you could stop sharing the screen at  
11 this time. Perfect.

12 As one final question just as a clarification, Mr. Morrow,  
13 you had referenced -- I believe, maybe said it two different  
14 ways in terms of a cleaning service that -- that helps the  
15 facility. I'm not sure if it's Servpro or Proserve?

16 THE WITNESS: Servpro.

17 HEARING OFFICER MIRAGLIOTTA: Servpro, okay.

18 THE WITNESS: Yes.

19 HEARING OFFICER MIRAGLIOTTA: And could you spell that for  
20 the record, please?

21 THE WITNESS: S-E-R-V capital P-R-O (sic), one word.

22 HEARING OFFICER MIRAGLIOTTA: Thank you. And that was all  
23 the questions that I had. Okay.

24 Ms. Bichner, any questions?

25 MS. BICHNER: None from the Petitioner.



1 HEARING OFFICER MIRAGLIOTTA: Anything further from this  
2 witness, Ms. Jagoda?

3 MS. JAGODA: Could I -- may I have a five-minute recess  
4 before -- before we discharge this witness?

5 HEARING OFFICER MIRAGLIOTTA: Sure.

6 Any -- any objection from Petitioner for any reason, a  
7 short break?

8 MS. BICHER: I'm sorry. I'd put off the -- the five-  
9 minute break before -- I'd say that we should finish with this  
10 witness before any break. Because the questioning will be  
11 limited to the information that was just solicited by the  
12 hearing officer for any further examination, so I'd offer that  
13 we should finish with this witness before taking any recess.

14 HEARING OFFICER MIRAGLIOTTA: Yeah. I mean, Ms. -- Ms.  
15 Jagoda, what -- what is the -- what's the reason for the -- the  
16 recess?

17 MS. JAGODA: The reason for the recess is that -- that's  
18 all right. We can -- we can finish with this witness, and then  
19 we'll have the recess.

20 HEARING OFFICER MIRAGLIOTTA: Okay. Okay. Any -- any  
21 further questions for Mr. Morrow?

22 MS. JAGODA: No further questions for Mr. Morrow.

23 HEARING OFFICER MIRAGLIOTTA: Okay. Thank you very much,  
24 Mr. Morrow.

25 We can take a five-minute recess. I guess I want to

1 inquire, before we do that recess, Ms. Jagoda, do you have any  
2 further evidence that you'll be presenting?

3 MS. JAGODA: Yes. In the interest of completeness, I  
4 think we need to call Tatjana Zunjic to testify about what Mr.  
5 Morrow didn't recall. And we may have another exhibit.

6 I also have a question, and that is -- it -- it pertains  
7 to -- to -- in some respect, to the Petitioner's proposed  
8 exhibits. Obviously, the testimony that we have presented  
9 relates to the factors in the -- I forget the name of the  
10 case --

11 HEARING OFFICER MIRAGLIOTTA: General Counsel's Memo  
12 20-01?

13 MS. JAGODA: No, in the Aspirus Keweenaw --

14 HEARING OFFICER MIRAGLIOTTA: Oh, right.

15 MS. JAGODA: -- that case, the --

16 HEARING OFFICER MIRAGLIOTTA: And it's -- right, right.

17 MS. JAGODA: The -- the Board's decision setting the  
18 standards. It pertains to the factors that are within the  
19 Employer's control. The Petitioner's exhibits are basically to  
20 two websites containing data for another one of the factors.

21 There -- there is City of New Orleans data, as well. We  
22 were under the impression that, for -- for this data, the Board  
23 takes judicial notice, so we have not prepared any additional  
24 exhibits. But if you would like us to prepare exhibits for the  
25 City of New Orleans data, which I believe is more recent, we

1 would be -- we would need time, or you know, at least ten  
2 minutes or so, at least, to prepare exhibits on that.

3 Otherwise, we could do it by -- before the hearing closes,  
4 but maybe after testimony closes, through -- through a -- a  
5 written submission.

6 HEARING OFFICER MIRAGLIOTTA: Okay. Well, as -- as to the  
7 first part, in -- in terms of Ms. Tatjana, how -- do we know if  
8 she's available right now? Like, do we know the status? Okay.

9 MS. JAGODA: She's on standby.

10 HEARING OFFICER MIRAGLIOTTA: Okay, so why don't we take a  
11 very short recess, maybe five minutes, just to get her on the  
12 Zoom call? You know, I'll figure all that out, as necessary.  
13 And then, I will inquire with the Assistant to the Regional  
14 Director, kind of, regarding how much time we want to give  
15 to -- to prepare the other exhibits, you know. We'll -- we'll  
16 take all the evidence regarding the CDC, and you know, what --  
17 the Orleans Parish versions, whatever -- whatever you want to  
18 present. We could a longer recess for that later, but I would  
19 say let's try to get all the evidence that we can now.

20 So if we want to take a very short recess to locate and  
21 get the additional witness on the Zoom call, we can do that  
22 now. We'll go off the record, and we'll come back on the  
23 record at -- my -- my time is showing 11:18, so maybe 11:25  
24 Central Time?

25 MS. JAGODA: I think we could do that.

1 HEARING OFFICER MIRAGLIOTTA: Okay, and we can off the  
2 record, Mr. Baldwin.  
3 (Off the record at 11:18 a.m.)

4 HEARING OFFICER MIRAGLIOTTA: Ms. Zunjic, could you please  
5 raise your right hand?  
6 Whereupon,

7 **TATJANA ZUNJIC**

8 having been duly sworn, was called as a witness herein and was  
9 examined and testified, telephonically as follows:

10 HEARING OFFICER MIRAGLIOTTA: Okay. Could you please  
11 state your name and spell it for the record?

12 THE WITNESS: Tatjana Zunjic, T-A-T-J-A-N-A Z-U-N-J-I-C.

13 HEARING OFFICER MIRAGLIOTTA: And Ms. Jagoda, you may call  
14 your witness.

15 **DIRECT EXAMINATION**

16 Q BY MS. JAGODA: Ms. Zunjic, are you employed by CenTrio  
17 Energy South, LLC?

18 A Yes.

19 Q And how long have you been with the company?

20 A August 1st -- I'm sorry. August 10th, 2020.

21 Q And what is your position with the company?

22 A Manager, human resources.

23 Q The questions that I want to ask you relate to individuals  
24 not in the petition for a unit. Let me start by reading for  
25 you the definition of what constitutes the petition for a unit.

1 I'm just going to read the included people, but we're going to  
2 be asking you about people who are not within this definition.

3 "All full-time and regular part-time operators/stationary  
4 engineers and maintenance employees employed by the employer in  
5 its New Orleans district energy system based at 1661 Gravier  
6 Street, New Orleans, 70112". With regard to people who are not  
7 in that petition for a unit -- because we've already had  
8 testimony from Mr. Morrow about the people in the unit. For  
9 those who were -- how -- how many of them, if any, who were  
10 present at the company's New Orleans facilities at some point  
11 during the last 14 days have reported being in contact with  
12 someone who exhibited characteristic symptoms of COVID-19 in  
13 the previous 14 days or reported awaiting a test?

14 A Two.

15 Q Okay, and with those two people, when was the last time  
16 that they were at work?

17 A One of them was August 6th, and the other one was August  
18 13th.

19 Q Okay. The person who was -- who -- who was last at work  
20 on August 6th, what did that person report about coming into  
21 contact with someone who -- who tested positive for COVID?

22 A They were on their own personal time, where they found out  
23 that they may have become in contact with someone who tested  
24 positive for COVID.

25 Q Okay, and has that person been tested, the person, the



1 employee, the -- the employee, has the employee himself been  
2 tested for COVID-19?

3 A Yes.

4 Q And what was the result of the test?

5 A Negative.

6 Q Okay. With respect to the other individual, who was last  
7 on the premises on August 13th, could you describe the  
8 circumstances that -- that were reported with regard to their  
9 contact with someone who -- who tested positive for COVID-19?

10 A They were on their own personal time when they were  
11 notified that someone may have been positive, identified as  
12 positive, for COVID-19.

13 Q And has that person, the -- the person who was on the  
14 company's premises, have they been tested themselves?

15 A We are waiting for test results.

16 Q Okay. Now, have either of those two individuals, the one  
17 who was last at work on August 6th and the one who was last on  
18 the premises on August 13th, has either of them been in contact  
19 with anyone in the petition for a bargaining unit since the --  
20 the -- the person who reported their contact had -- had the  
21 contact?

22 A No.

23 MS. JAGODA: Okay. I don't have any -- oh.

24 Q BY MS. JAGODA: Then, I'd like to show you what has been  
25 marked as Employer Exhibit 3 for identification. I will share

1 my screen to show you that. Can you -- can you see it, Ms.  
2 Zunjic?

3 A Yes.

4 Q Okay. I'm going to make it a little smaller. What is  
5 Employer's Exhibit 3?

6 A That's my declaration.

7 Q Okay, and is that your signature at the bottom?

8 A Yes.

9 MS. JAGODA: I move for the admission of Exhibit --  
10 Employer's Exhibit 3 in evidence.

11 HEARING OFFICER MIRAGLIOTTA: Any objection from the  
12 Petitioner?

13 MS. BICHNER: Just a bit of voir dire.

14 **VOIR DIRE EXAMINATION**

15 Q BY MS. BICHNER: So how did the witness comp -- like, from  
16 what sources did the witness compile the information included  
17 the declaration and how -- how recent is the -- is that data?

18 MS. JAGODA: Well, I think the data speaks for itself that  
19 it's all within the last 14 days. But we can --

20 HEARING OFFICER MIRAGLIOTTA: We can --

21 MS. JAGODA: -- if we can have Ms. --

22 HEARING OFFICER MIRAGLIOTTA: Yeah, I mean, we can direct  
23 that question at the witness in terms of, you know, how -- how  
24 recently she compiled it, and how she compiled it.

25 A So it would've been within the 14 days I personally



1 contacted each of the identified employees and had  
2 conversations with them.

3 Q BY MS. BICHNER: And when did you have these contacts?  
4 Were they all in a single day or -- or over the period of  
5 several days?

6 A No, it would've been over a period of different days  
7 because they identified at different times.

8 Q So just to clarify, cause I'm a little confused cause  
9 this -- this says, you know, it -- it certifies for, you know,  
10 an -- entire groups of employees, both entire groups of  
11 employees inside the unit, outside the unit. So did you  
12 contact every single employee or just those who exhibited  
13 symptoms or -- or what was your process?

14 A Just the employee that exhibited symptoms I contacted.

15 Q Okay. Just looking through -- okay.

16 MS. BICHNER: No objection to the admission of this  
17 document for what it's worth.

18 HEARING OFFICER MIRAGLIOTTA: Okay. Employer's Exhibit 3  
19 is received.

20 **(Employer Exhibit Number 3 Received into Evidence)**

21 **RESUMED DIRECT EXAMINATION**

22 Q BY MS. JAGODA: Okay. Just for clarification, Ms. -- Ms.  
23 Zunjic -- Zunjic, what is the -- the pro -- the COVID-19 pro --  
24 it -- it -- the reason that you contacted these employees, was  
25 it -- was it pursuant to some sort of company protocol?

1 A Yes.

2 Q And what was that company protocol?

3 A So when someone is identified to be exhibiting symptoms  
4 and not healthy to come into work, either the manager or the  
5 employee themselves will contact me directly and ask what the  
6 next steps are.

7 Q Okay. And -- and how did that protocol relate to your  
8 communications with the people identified in your declaration?

9 A So they would have -- some communication would have come  
10 to me to identify that they not feeling well. I reached out  
11 directly to them to ask them what their symptoms were, were  
12 they going to get tested, and who they had become in contact  
13 with, what was their last day of work, and where they identify  
14 themselves that they feel that the incident of contamination  
15 would have happened.

16 Q Okay.

17 MS. BICHNER: I have no further questions for Ms. Zunjic.

18 HEARING OFFICER MIRAGLIOTTA: Thank you, Ms. Jagoda. And  
19 if you could -- you can cease -- stop sharing your screen at  
20 this time. Great. Okay. Ms. Bichner any questions for Ms.  
21 Zunjic?

22 MS. BICHNER: No questions from me.

23 HEARING OFFICER MIRAGLIOTTA: And I do not have anything  
24 as the hearing officer. You are free to step down, Ms. Zunjic.  
25 Thank you very much. And at this time, does the Employer have

1 any further evidence to present?

2 MS. JAGODA: I just want to clarify -- I just want to make  
3 sure Employer's Exhibit 3 is in evidence; is that --

4 HEARING OFFICER MIRAGLIOTTA: Yeah.

5 MS. JAGODA: -- correct?

6 HEARING OFFICER MIRAGLIOTTA: That's --

7 MS. JAGODA: Okay.

8 HEARING OFFICER MIRAGLIOTTA: -- correct.

9 MS. JAGODA: Then the only other thing would be the issue  
10 of the City of New Orleans data.

11 HEARING OFFICER MIRAGLIOTTA: Okay. What we would do --  
12 well, let me -- let me ask you this first. Does the Petitioner  
13 have any objection to the hearing officer taking judicial  
14 notice essentially of the data that would be from the New  
15 Orleans dashboard?

16 MS. BICHNER: No objection for the -- from the Petitioner  
17 with the only caveat being, if there's some way of ensuring  
18 that we're all sort of looking at the same data, whether that  
19 be hyperlink or you know, however it may be. But otherwise, no  
20 objection.

21 HEARING OFFICER MIRAGLIOTTA: Okay. So what we'll do I  
22 think I, you know, I'd like to continue, I think ultimately we  
23 will wind up taking another recess. And at that time during  
24 that recess, I will kind of figure out a -- a way to best  
25 present this. You know, even if it is a small printout that I

1 read some of the data and information onto the record, that  
2 sort of thing. I would like to capture it for what it says  
3 today. You know, Monday -- or sorry, rath -- well, it's --  
4 it's last updated on Monday, August 16th as opposed to like a  
5 hyperlink that could potentially change and -- and that sort of  
6 thing. So what we'll do is I will take notice now that -- that  
7 that is still one outstanding piece of evidence that we're just  
8 figuring out the best way to present that to all the parties  
9 and to take judicial notice of it. And I'll allow the Employer  
10 to reserve time to offer that into evidence at a later time.  
11 But other than that, if -- if you have no further evidence or  
12 witnesses at this time --

13 MS. JAGODA: Correct.

14 HEARING OFFICER MIRAGLIOTTA: -- Ms. Jagoda?

15 MS. JAGODA: Correct.

16 HEARING OFFICER MIRAGLIOTTA: All right. Then Ms.  
17 Bichner, are you prepared to proceed with your presentation of  
18 evidence?

19 MS. BICHNER: Yeah, so we are prepared to proceed with our  
20 presentation of evidence, which will be pretty short, and  
21 sweet, and summary. And you know, I sort of look for the  
22 hearing officer's guidance. But similar to Ms. Jagoda in terms  
23 of the CDC data and the other exhibits that we presented.

24 First, the CDC data that we presented for some reason when  
25 I try to save it as a document that's shareable, the text comes

1 out pretty skewed and -- and hard to read. So I don't know if  
2 it makes sense in terms of when we take the recess regarding  
3 the City of New Orleans data, if it makes sense that -- to find  
4 a -- some way of making sure that we all have sort of the same  
5 information on that front. But the Petitioner's, you know,  
6 case is really just to offer that data at this point.

7 And it's all self-authenticating under Federal Rule of  
8 Evidence 902 because it is a document from a -- a public  
9 authority, an official document from a public authority. So  
10 really, we just offer into evidence as our case the data  
11 presented. And then we'd like to, of course, give a -- give a  
12 closing argu -- argument based on -- based on the evidence.

13 HEARING OFFICER MIRAGLIOTTA: Okay. So let me, I guess,  
14 lay out then what -- how we'll kind of proceed here because  
15 what my intentions are, would be to first then clarify for the  
16 record just kind of the -- both parties' positions regarding  
17 you know, date, type, time, eligibility period for the  
18 election. We would then go over some of the election details  
19 such as the -- the Employer's onsite representative.

20 The Regional Director has already determined that there  
21 will not be briefs, that we would just do oral argument here.  
22 And so I would do like a longer recess before that. And  
23 basically, what we would do is before we would take that long  
24 recess, come back, and do closing arguments. And during that  
25 time is when I can kind of figure out the evidentiary issue.

1 MS. JAGODA: I'd like to raise an objection because --

2 HEARING OFFICER MIRAGLIOTTA: Okay.

3 MS. JAGODA: -- the instructions we were provided with the  
4 notice of the representation hearing indicated --

5 HEARING OFFICER MIRAGLIOTTA: Um-hum.

6 MS. JAGODA: -- that we would have an opportunity to do --  
7 do post-hearing briefs. And we were acting on reliance in --  
8 of that instruction in preparation for the hearing. If -- if I  
9 had known we were going to have to do oral arguments, I would  
10 have prepared for an oral argument. We anticipated having five  
11 business days to prepare a brief.

12 MS. BICHER: I -- I'd respond to that objection by saying  
13 it's the Petitioner's position for all of the reasons  
14 summarized in its Responsive Statement of Position that the  
15 Employer should not even at this juncture be allowed to raise  
16 argument on any issue, including the matter of election issue.  
17 In addition, per the Board's regulations, that's not even a  
18 litigable issue. And so it's not something that appropriately  
19 the Board should need to take briefs on. Their reliance in  
20 the -- in the standardized notice itself should not -- should  
21 not change that fact. And given the Board's offer by the  
22 hearing officer to allow the parties a longer recess before  
23 providing that oral argument on a very limited issue with very  
24 limited case law, I think it's appropriate that the record be  
25 limited to the oral argument, particularly because the briefs

1 would impact the date and time of the election should the --  
2 you know, Region have to wait for the parties to submit briefs  
3 when, again, the Employer in the Union's eyes and in the eyes  
4 of controlling, you know, Board regulation and case law here  
5 shouldn't have even in the first place been able to raise this  
6 argument or this issue.

7 HEARING OFFICER MIRAGLIOTTA: Understood. Okay. So  
8 what -- what we'll do is first for the record, we will clarify  
9 the parties' positions on the election, see if any positions  
10 have changed and -- and get any details that are necessary for  
11 a directed election.

12 At that point, we will go off the record for a -- for a  
13 brief recess at that time just so I can consult with the  
14 assistance of the Regional Director and potentially the  
15 Regional Director about the issue regarding briefs versus oral  
16 arguments, that sort of thing. I will come back and explain  
17 the Regional Director's decision, rationale, et cetera. And  
18 then at that time we can proceed with either a longer recess to  
19 clarify just the evidentiary issues and the -- the CDC and New  
20 Orleans dashboard data as well as, you know, potentially taking  
21 a longer recess for an oral argument at that time.

22 So for now, what we will do is I will inquire about  
23 election details in the event that an election is directed.  
24 First, I want to clarify, have either of the parties' positions  
25 changed on the only issue that we were litigating today

1 regarding a mail ballot versus manual election based on the  
2 hearing today?

3 MS. BICHNER: No from the Petitioner.

4 MS. JAGODA: And no -- no from the Employer either.

5 HEARING OFFICER MIRAGLIOTTA: Okay. And the Regional  
6 Director has determined already, as I mentioned at the start of  
7 the hearing that there is one individual who will vote subject  
8 to challenge that is listed in the Union's Statement of  
9 Position. Let me just make sure I have the exact name and  
10 position correct. And so the individual that will be voting  
11 subject to challenge is Gregory Dequair, title, lead operator.  
12 The Union has contended that he is excluded from the petition  
13 for a unit because he is a supervisor as defined by the Act.  
14 We're not litigating that issue today, so he can vote subject  
15 to challenge by ruling of the Regional Director. Okay.

16 And so then the next issues that we will move on to --  
17 okay. If, or when an election is directed, does any party who  
18 is entitled to receive the voter list, wish to waive the ten-  
19 day or any portion of the ten-day requirement? So that would  
20 be for the Petitioner.

21 MS. BICHNER: If I could on that issue, Andrew, and I hate  
22 to take up more of the Agency's time, but is that something  
23 that I could consult with my client about before giving that,  
24 you know, position on record?

25 HEARING OFFICER MIRAGLIOTTA: Yes. And did you want to do



1     that right now, or is that something that we would handle maybe  
2     at a longer recess?

3           MS. BICHNER:  If -- if it's acceptable to the hearing  
4     officer, if we could just handle it after the recess to avoid,  
5     you know, multiple recesses that -- that works for us if it  
6     works for the -- the Agency.

7           HEARING OFFICER MIRAGLIOTTA:  We can do that.  And we will  
8     circle back to that issue.  Okay.

9           Now, the next question would be, you know, what are the  
10    party's positions concerning the date, times, and locations of  
11    the election and the eligibility period.  Now, I've noticed  
12    already that in the Employer's Statement of Position, which is  
13    Board Exhibit 3, the first attached page to that Statement of  
14    Position has a list of proposed dates and times for the  
15    election.  They include September 9th, and 10th, September 2nd,  
16    and 3rd, and 23rd, and 24th.  Those details are kind of laid  
17    out in detail in that document.

18           Ms. Jagoda, does -- does that document contain the  
19    Employer's full and unchanged position regarding potential  
20    dates and times for a manual election?

21           MS. JAGODA:  Yes.

22           HEARING OFFICER MIRAGLIOTTA:  Okay.  And regarding the  
23    eligibility period, we would need details on -- on how often  
24    employees are paid.  So typically, the eligibility period is  
25    you know, any employee that is employed up to the pay period

1 ending immediately before the Regional Director directs the  
2 election. I don't know exactly when the Regional Director will  
3 be directing that election but. So -- so do we know the  
4 employees' payroll schedule?

5 MS. JAGODA: Yes.

6 HEARING OFFICER MIRAGLIOTTA: And what is it?

7 MS. JAGODA: Their -- the employees are paid biweekly.  
8 The -- for the people in the petition for a bargaining unit,  
9 their pay period goes through Sunday. The -- the date that we  
10 had listed in our Statement of Position, August 8th, was the  
11 end of a pay period. So that was our best guess, depending on  
12 when the date of the direction of election would be as to the  
13 last day of the pay period. But it could be two weeks later  
14 depending on when the direction of the election is issued.

15 HEARING OFFICER MIRAGLIOTTA: Understood. So -- so the --  
16 the most recent pay period ended August 8th. And then is it  
17 accurate to say that the next pay period would end August 22nd?

18 MS. JAGODA: Let me -- I just have to look at a calendar.

19 HEARING OFFICER MIRAGLIOTTA: That would be --

20 MS. JAGODA: Yes. That's two weeks later. So yes, I  
21 believe that is the case.

22 HEARING OFFICER MIRAGLIOTTA: Okay. And I don't  
23 anticipate that it would take this long, but just in case, the  
24 pay period following that would end September 5th, 2021?

25 MS. JAGODA: I have to -- yes.

1 HEARING OFFICER MIRAGLIOTTA: Okay. Does the Petitioner  
2 have any either objections or comments to those eligibility  
3 dates depending on when the Regional Director directs an  
4 election in this case?

5 MS. BICHNER: No comments or objections, the eligibility  
6 dates. I just point out or just -- just put on the record that  
7 the Petitioner's petition for date or the -- their position on  
8 the date for the election would be in line with Board prece --  
9 precedent that it be the earliest practicable date. And I  
10 would like to point to, to the extent the Employer is, you know  
11 granted it's -- it's request for an in-person election, the two  
12 dates they identified of the 2nd and the 3rd are right before  
13 the Labor Day holiday weekend as I understand it, they're a  
14 Thursday, Friday. And in terms of, you know, the stated  
15 interest on the Employer's side, and of course, on the Union's  
16 side for maximum voter participation, I just -- I just point  
17 that out to the Region in that in my limited experience,  
18 sometimes, you know, holiday weekends, you know, can be -- can  
19 be tough in terms of voter participation for in-person  
20 elections.

21 MS. JAGODA: Right. We did check nobody right now is  
22 scheduled to -- to be on vacation either of those two days.  
23 But they're -- the reason that we suggested first September  
24 9th, and 10th was because it was the first time period after  
25 Labor Day and after when we guessed the direction of election

1 might occur when all four of the shifts would be reachable  
2 during the -- the dates and times that we suggested.

3 HEARING OFFICER MIRAGLIOTTA: Okay. Understood. Okay.  
4 Next, does any party anticipate the need for the notice of  
5 election and/or the ballots to be translated in this case?

6 MS. JAGODA: We do not.

7 MS. BICHNER: Not that the Petitioners were either.

8 HEARING OFFICER MIRAGLIOTTA: Okay. Ms. Jagoda, this is  
9 regarding the Employers onsite representative. This would be  
10 the representative to whom the Regional Director should send  
11 the notice of election for posting at the facility. So what is  
12 the name, address, email address, fax number, and telephone  
13 number of the Employer's onsite representative to whom the  
14 Regional Director should transmit the notice of election if and  
15 when an election is directed.

16 MS. JAGODA: Gordon Morrow, you have -- his name is  
17 G-O-R- -- you have him because he just testified. His address  
18 is 1661 Gravier Street. His email address is -- I just had it,  
19 Gordon.morrow@centrioenergy.com. And the fax number at the  
20 facility is 504-569-2110.

21 HEARING OFFICER MIRAGLIOTTA: Okay. And this is for both  
22 parties, if an election is directed, may the Region communicate  
23 directly with election observers regarding election procedures  
24 or any issues that arise during an election, at the pre-  
25 election conference, and the ballot count?

1 MS. BICHNER: Yes, from the Petitioner.

2 MS. JAGODA: Directly with observer -- could -- could you  
3 just say it again? I'm sorry.

4 HEARING OFFICER MIRAGLIOTTA: If an election is directed,  
5 may the Region communicate with your election observer simply  
6 regarding election procedures and any issues that arise during  
7 an election, the pre-election conference, and the ballot count?

8 MS. JAGODA: Yes.

9 HEARING OFFICER MIRAGLIOTTA: Okay. The Regional Director  
10 will issue a decision in this matter as soon as practical and  
11 will immediately transmit the documents to the parties and  
12 their designated representatives by email, fax, or by overnight  
13 mail if neither an email address nor fax number is provided.

14 Here are the obligations and time period for complying  
15 with those obligations. The Employer must provide the voter  
16 list to be timely filed and served. The voter list must be  
17 received by the Regional Director and the parties named in the  
18 direction within two business days after the issuance of the  
19 direction of election unless a longer period based on  
20 extraordinary circumstances is specified in the decision and  
21 direction of election.

22 A certificate of service on all parties must be filed with  
23 the Regional Director. When the voter list is filed, the  
24 Region will no longer serve the voter list. The Employer must  
25 submit the voter list in an electronic format approved by the

1 General Counsel unless the Employer certifies that it does not  
2 have the capacity to produce the list in the required format.  
3 The lists must be filed in common everyday electronic --  
4 electronic file formats that can be searched. Accordingly  
5 unless otherwise agreed to by the parties, the list must be  
6 provided in a table in a Microsoft Word file or file that is  
7 compatible with Microsoft Word.

8 The first column of the list must begin with each  
9 employee's last name and the list must be alphabetized either  
10 overall or by department, by last name. Because the list will  
11 be used during the election, the font size of the list must be  
12 equivalent of Times New Roman 10 or larger. That font does not  
13 need to be used, but the font must be that size or larger. A  
14 sample optional form is provided on the NLRB website.

15 The Board stated that it is presumptively appropriate for  
16 the Employer to produce multiple versions of the list where the  
17 data required is kept in separate databases or files, so long  
18 as all of the lists link the information to the same employees  
19 using the same names in the same order and are provided within  
20 the allotted time. If the Employer provides multiple lists,  
21 the lists used at the election will be the list containing the  
22 employees' names and addresses. The list must include the full  
23 names, work locations, shifts, job classifications, and contact  
24 information, including home addresses, available personal email  
25 addresses, and available home, and personal cellular telephone

1 numbers of all eligible voters.

2 The Employer must also include in a separate section of  
3 that list, the same information for those individuals the  
4 parties have agreed will be permitted to vote subject to  
5 challenge, or those individuals who according to the decision  
6 and direction of election will be permitted to vote subject to  
7 challenge.

8 Earlier, we already established that the Employer has  
9 stated they wish to file a post-hearing brief. I'm going to  
10 give the parties a brief opportunity to provide their positions  
11 on the record concerning the need for briefs.

12 So first Ms. Jagoda, what is the Employer's position on  
13 the need for a post-hearing brief?

14 MS. JAGODA: Okay. Well, as an initial matter, the  
15 instruction -- the notice of representation election had  
16 indicated there would be an opportunity to file post-hearing  
17 briefs. So the Employer has planned to file a post-hearing  
18 brief. There is some case law that has developed since the key  
19 one, Michigan Nurses Association case was decided. And a -- a  
20 brief laying out the law, the applicable standards, and the --  
21 and relating the evidence to the legal standards is warranted  
22 in this case.

23 HEARING OFFICER MIRAGLIOTTA: Okay. And for the Union,  
24 Ms. Bichner, I know you, kind of, already stated your opinion,  
25 but just to clarify again for the record, what is the

1     Petitioner's request to file a brief?

2           MS. BICHNER:  Yes.  So as an initial matter, in terms of  
3     the case -- case law regarding briefs that's come out  
4     subsequent to Aspirus, I'd be interested in a citation to that  
5     case law because I'm not sure the case law speaking to the  
6     propriety of briefs that's been issued since that time.  But  
7     first and foremost as the Petitioner has maintained throughout  
8     this proceeding for reasons summarized in the Petitioner's  
9     Responsive Statement of Position related to the regulations  
10    regarding timely service of statements of position in  
11    representation matters, the Employer should have been precluded  
12    even at this hearing from presenting argument, presenting any  
13    evidence, or raising any issue or regarding any issue including  
14    the manner of election.

15           And this is in addition to the fact that the Board's  
16    regulations provide that that is a nonlitigable issue.  In  
17    terms of the Respondent's argument regarding a reliance on the  
18    standard, you know, Board notice that identified briefs, I  
19    just -- I'd just point out that reliance on such a standard  
20    notice should not change this result.  And particularly here,  
21    where other things were identified in -- in standard notices  
22    from the Board relating to service of documents before this  
23    hearing.  So we'd say that the reliance on that argument in  
24    terms of seeking briefs is misplaced.

25           And then finally this is, in any event, a hearing on a



1 very limited issue with a very limited universe of information  
2 and a very limited body of case law. There's a controlling  
3 case here that lays out specifically six situations in which  
4 mail-ballot elections the -- during the COVID-19 pandemic are  
5 appropriate. And so there's not much here to -- to argue in  
6 terms of both law and fact.

7 So for all of those reasons the Petitioner would submit  
8 that the need for briefs is -- there is no need for briefs in  
9 this case. In addition to the fact that that would only  
10 further delay an election here for the bargaining unit to have  
11 their voices heard. And any such additional delay based on all  
12 of those reasons would be inappropriate and contrary to Board  
13 Policy.

14 HEARING OFFICER MIRAGLIOTTA: Okay. So what I'm going to  
15 do is take a brief recess to confer with the Regional Director  
16 concerning the party's positions on the need for briefs. I  
17 would say, I will -- we can take a brief recess. We'll go off  
18 the record and come back on in about, let's say five minutes.  
19 And you know, if -- if I haven't been able to assess the  
20 Regional Director's decision on that in that time we can take a  
21 further recess, but let's take a five-minute recess. We'll go  
22 off the record and we'll come back at approximately 12:22 p.m.  
23 Central.

24 (Off the record at 12:17 p.m.)

25 HEARING OFFICER MIRAGLIOTTA: Okay. The -- the parties

1 have returned from a recess here for the determination of a  
2 number of issues. The first that we will start with is  
3 actually reasking the Petitioner about the waiver of the voter  
4 list in this case. So just to reiterate the question that was  
5 asked, it is for the Petitioner, Ms. Bichner, if an election is  
6 directed does any party who is entitled to receive the voter  
7 list wish to waive the ten-day or any portion of the ten-day  
8 requirement?

9 MS. BICHNER: Yes. The Petitioner would like to waive the  
10 ten-day period for the voter list up -- up to the entire  
11 period, but I -- with the understanding that they're, at least,  
12 I think it's two or three business days that needs to be  
13 reserved in any event for the notice of election. But the  
14 Petitioner would otherwise be willing to waive the remaining  
15 portion of the ten-day period for the voter list.

16 HEARING OFFICER MIRAGLIOTTA: Perfect. And then off the  
17 record you had raised an issue about, you know, potential, if  
18 there is a manual election directed sort of the Petitioner's  
19 requests regarding virtual visits to either the pre-election  
20 conference, tally of ballots, or the election itself?

21 MS. BICHNER: Yes. Thank you, Mr. Hearing officer. So  
22 sort of as a supplement to the Petitioner's earlier stated  
23 position in terms of communications with the Union's observers  
24 by the Agency in terms of pre-election and other matters that  
25 arise during also the tally of ballots. And the Petitioner now

1 understands and thank you for the hearing officer for providing  
2 this information, that a video sort of virtual visit of the  
3 site should an in-person election be directed pursuant to the  
4 General Counsel's memorandum setting forth, you know, protocols  
5 for elections during the COVID-19 pandemic, the Petitioner  
6 would like to exercise the ability to view the voting site  
7 within 48 hours before the election should an election in  
8 person be directed.

9 And then in terms of the tally of ballots, the Petitioner  
10 would request should an in-person election be directed that the  
11 Petitioner's counsel be able to attend virtually in some way  
12 even if that way is, you know, over sort of like a FaceTime  
13 call with the representatives from my client that'll be  
14 present, you know, in person should -- should an in-person  
15 election be directed.

16 HEARING OFFICER MIRAGLIOTTA: Understood. Okay. The next  
17 issue that I would like to address in terms of offering  
18 evidence here, we did discuss earlier potential further or more  
19 up to date COVID information. And so I am going to offer into  
20 evidence as Board Exhibit 5(a) and 5(b) publicly available  
21 information regarding COVID data tracking within the New  
22 Orleans area, which again is where the facility in this case is  
23 located. Both of the facilities in this case are located  
24 actually in Orleans Parish.

25 And so just as a general description, Board Exhibit 5(a),



1 is from the Center for Disease Control and Prevention. This  
2 data is actually identical to that offered by Petitioner in  
3 Petitioner's Exhibit 1. It just is sort of printed a little  
4 bit more legibly and in color such that you can read all the  
5 tracking information. But the numbers under the lists of  
6 people vaccinated, the seven-day moving averages of cases,  
7 percent positivity, all of those kinds of things, they are  
8 identical to Petitioner's Exhibit 1.

9 And just one note for anybody viewing the record is  
10 although that at the top, the integrated county view says  
11 state, Alabama, and county, Acadia Parish, that is again,  
12 because this is an interactive website that is difficult to  
13 capture in printed format. And so when printing it, it  
14 defaults to the first state and first county that are available  
15 alphabetically. But when you scroll down, or rather when you  
16 look at the additional pages, pages 2, 3, 4, and 5, you will  
17 see that it is specifically the commun -- community  
18 characteristics for Orleans Parish, Louisiana. So that is  
19 where that data comes from.

20 Board Exhibit 5(b) is made available to the public via the  
21 City of New Orleans in what is referred to as the New Orleans  
22 COVID dashboard. And the issue with this is, is that, again,  
23 it's an interactive site that is difficult to capture in some  
24 sort of printout. The computer seems to want to print it on  
25 one page, even though it is a -- a lengthy series of datas and

1 figures. And so what we have is the data last updated as of  
2 Monday, August 16th for specifically the City of New Orleans  
3 area. It shows a positive test rate of 12.2 percent, and a  
4 classification of severe outbreak. There are then several  
5 charts that follow including the positive test rate, infection  
6 rate, and new cases over a seven-day average. You know, with  
7 the caveat that anybody viewing this evidence is better off  
8 viewing it electronically rather than a printed-out version,  
9 which would kind of result in microscopic text, I -- I would  
10 offer that into evidence as well.

11 And I do understand that the Employer plans on offering an  
12 additional exhibit, which is sort of a, almost broken-down  
13 version of -- of what this exhibit would be with some of the  
14 plot points highlighted in terms of dates and that sort of  
15 thing. We'll allow that at that time. But for right now, I  
16 would offer a Board Exhibit 5(a) and 5(b) into evidence, sort  
17 of with the hearing officer taking judicial notice that this  
18 would like -- likely be admissible under FRE 902. And that  
19 this is publicly available information.

20 So that being said, any objection from the Petitioner on  
21 Board Exhibit 5(a) and (b)?

22 MS. BICHNER: No objection.

23 HEARING OFFICER MIRAGLIOTTA: And any ob -- objection from  
24 the Employer?

25 MS. JAGODA: No objection.

1 HEARING OFFICER MIRAGLIOTTA: Great. So Board Exhibit  
2 5(a) and (b) is offered into evidence with the caveats that I  
3 mentioned.

4 **(Board Exhibit Numbers 5(a) and 5(b) Received into Evidence)**

5 HEARING OFFICER MIRAGLIOTTA: Now, finally addressing the  
6 last issue that we consulted with the Regional Director off the  
7 record. And what we did is we -- we're addressing the question  
8 of whether or not we would allow oral arguments or briefs in  
9 this case. And the Regional Director did take notice of the  
10 recent GC memo, which said that briefs are permitted, post-  
11 hearing, pre-election briefs are permitted. And that that is  
12 why as the Employer pointed out that those are contained within  
13 the Notice of Hearing. Because of that General Counsel Memo,  
14 that's why it does offer that right in the notice of hearing.

15 That said, under Rule 102.66(d), as in dog, under the  
16 Board's Rules and Regulations, that particular rule addresses  
17 the introduction of evidence with specific regards to  
18 preclusion. And what that says is that a party shall be  
19 precluded from raising any issue, presenting any evidence  
20 relating to any issue, cross-examining any witness concerning  
21 any issue, and presenting argument concerning any issue that  
22 the party failed to raise in its timely Statement of Position  
23 or to place in dispute in response to another party's statement  
24 of position or response, except that no parties shall be  
25 precluded from contesting or presenting evidence relevant to

1 the Board's statutory jurisdiction to process the petition.

2 And so what the Regional Director has determined is that  
3 although we permitted the presentation of evidence on the issue  
4 of mail ballot or manual election, that we will not be allowing  
5 the presentation of argument in the form of a post-hearing  
6 brief concerning that issue because as was noted in the  
7 Petitioner's Statement of petition -- of Position, the Union  
8 was not timely served with the Employer's Statement of  
9 Position.

10 So that being said, we are still offering the parties the  
11 opportunity to present an oral argument on the matter in the  
12 interest of developing a full record. So we already have on  
13 the record the parties' positions on whether or not they  
14 believe briefs are appropriate. I will ask kind of the same  
15 question first to the Petitioner then to the Employer about if  
16 they wish to present an oral argument or to waive their rights  
17 to oral argument at hearing.

18 So first Ms. Bichner, do you wish to present an oral  
19 argument at hearing?

20 MS. BICHNER: I do.

21 HEARING OFFICER MIRAGLIOTTA: Okay. And for the Employer,  
22 Ms. Jagoda, do you also wish to present an oral argument today?

23 MS. JAGODA: Yes.

24 HEARING OFFICER MIRAGLIOTTA: Okay. So then what I will  
25 do is ask the parties, you know, if they need a recess to

1 prepare for those oral arguments. And if so approximately how  
2 much time they would like, and then we can make a determination  
3 on that.

4 So for the Petitioner, Ms. Bichner, do you need, or would  
5 like a recess before oral argument?

6 MS. BICHNER: No.

7 HEARING OFFICER MIRAGLIOTTA: Okay. Ms. Jagoda, do you  
8 wish to have, or need any sort of recess before an oral  
9 argument?

10 MS. JAGODA: Well, bef -- before we have a recess on oral  
11 argument, I'd like a recess to complete preparation of, as you  
12 said, sort of larger scale, more -- more visible evidence  
13 regarding what's on the New Orleans dashboard. And I -- I  
14 think we should have that in evidence before -- for -- for both  
15 parties before the preparation of -- of oral -- oral argument.  
16 I would be --

17 HEARING OFFICER MIRAGLIOTTA: Can we --

18 MS. JAGODA: -- fine if we have a larger period that  
19 includes both, but -- but we need to --

20 HEARING OFFICER MIRAGLIOTTA: Right. That's -- that's --  
21 that's what I was -- I was going to offer is sort of a more  
22 extended period for -- for the opportunity to do both. What we  
23 would do is allow sort of that longer period of time to allow  
24 the Employer to prepare that second, or sorry that fourth and  
25 fifth exhibit that they wanted to offer as well as prepare

1     their oral argument. So did -- do you have a suggested length  
2     of time that you would need for both of those tasks?

3             MS. JAGODA: I guess -- I would -- an hour and a half?

4             HEARING OFFICER MIRAGLIOTTA: Is that -- I mean, are --  
5     can we -- can we cut it to an hour or do -- do we absolutely --

6             MS. JAGODA: I --

7             HEARING OFFICER MIRAGLIOTTA: -- absolutely (audio  
8     interference)?

9             MS. JAGODA: Yeah, yeah, I'm -- I'm okay with us touch --  
10    touching base in an hour. And then --

11            HEARING OFFICER MIRAGLIOTTA: Okay.

12            MS. JAGODA: -- if I haven't finished preparing the  
13    exhibit, I could let you -- you know at that time, if that's  
14    all right.

15            HEARING OFFICER MIRAGLIOTTA: Okay. Let's -- let's do  
16    that. So -- so we'll shoot for an hour recess here. It is  
17    currently 1:27. I'll -- I'll make it an even hour and three  
18    minutes, so that we will reconvene at exactly 2:30 p.m.  
19    Central. And then at that time, if there needs to be a longer  
20    recess for any reason, we can address it at that time. Again,  
21    this recess is for both preparing the additional exhibits that  
22    we want to offer as well as preparation of oral argument.

23            We will leave the Zoom hearing running during this time,  
24    so that we don't have to send out a new Zoom link and that --  
25    that sort of thing. But we'll -- we'll just reconvene in an

1 hour. Okay.

2 And we'll go off the record, Mr. Baldwin.

3 (Off the record at 1:27 p.m.)

4 HEARING OFFICER MIRAGLIOTTA: We are back from our recess.  
5 And prior to oral argument, just some housekeeping matters that  
6 I did want to go through. Basically, all of the exhibits, make  
7 sure that we, you know, have properly identified them, that the  
8 Court Reporter has them, that all the parties have seen them,  
9 and that they have all been received into evidence. And some  
10 of them actually, we are going to discuss some brief  
11 stipulations about as well.

12 So Board Exhibit 1, as discussed, is the formal papers.  
13 Board Exhibit 2 is a stipulation, and we did admit the  
14 stipulation itself into the record. There were no objections.  
15 But I would like to just go through those stipulations and have  
16 the parties say on the record that they actually do stipulate  
17 to those matters.

18 There are six stipulations included, and it is we  
19 stipulated that 1) We have been informed of the procedures at  
20 formal hearing before the NLRB by service of the statement of  
21 standard procedures with the notice of hearing. The hearing  
22 officer has offered to us additional copies of the statement of  
23 the standard procedures. 2) To the extent the formal documents  
24 in this proceeding do not correctly reflect the names of the  
25 parties, the formal documents are amended to correctly reflect



1 the names as set forth above. As noted, the name of the  
2 employer is Centrio Energy South, LLC. So that will go forward  
3 as correcting the name on the petition.

4 The Petitioner is a labor organization within the meaning  
5 of Section 25 of the NLRA. There is no collective bargaining  
6 agreement covering any of the employees in the unit sought in  
7 the petition therein, and there is no contract bar to this  
8 proceeding. The Employer is an employer engaged in commerce  
9 within the meaning of section 26 and -7 of the Act and is  
10 subject to the jurisdiction of the Board. The commerce facts  
11 are as follows: Centrio Energy South LLC, herein the Employer,  
12 a Delaware corporation with an office and place of business  
13 located at 1661 Gravier Street, New Orleans, LA, 70112,  
14 provides chilled water and steam services to businesses in New  
15 Orleans.

16 Annually, in the course and conduct of its business  
17 operations, the Employer provides services valued in excess of  
18 \$50,000 to public utilities, transit systems, newspapers,  
19 healthcare institutions, broadcasting stations, commercial  
20 buildings, educational institutions, or retail concerns.

21 6) The following unit is an appropriate unit within the  
22 meaning of Section 9(B) of the Act, included all full-time and  
23 regular part-time operators/stationary engineers and  
24 maintenance employees employed by the employer in its New  
25 Orleans district energy system based at 1661 Gravier Street,

1 New Orleans, Louisiana 70112. Excluded all other employees,  
2 managers, office clericals, guards, and supervisors as defined  
3 in the Act.

4 So then I asked the Petitioner, Ms. Bichner, is that so  
5 stipulated?

6 MS. BICHNER: Petitioner so stipulates.

7 HEARING OFFICER MIRAGLIOTTA: And Ms. Jagoda, is that so  
8 stipulated?

9 MS. JAGODA: I -- I apologize, it's good that you read it  
10 out loud. I am not a corporate lawyer, but in sec -- paragraph  
11 5, I don't believe LLC means corporation. I believe it stands  
12 for limited liability company. So it's saying a Delaware  
13 Corporation is probably not accurate.

14 HEARING OFFICER MIRAGLIOTTA: Okay. So what we will do is  
15 we will just amend that, basically verbally on the record here.  
16 So that will be changed to CenTrio Energy South LLC, herein in  
17 the Employer, a Delaware limited liability company.

18 MS. JAGODA: I bel -- I -- I -- again, I'm not a  
19 corporated -- a corporate lawyer, but I believe that's true.

20 HEARING OFFICER MIRAGLIOTTA: Okay. Okay. So CenTrio  
21 Energy Sub is a limited liability company as noted in its  
22 corporate filings within the Louisiana Secretary of State.  
23 So --

24 MS. JAGODA: Okay.

25 HEARING OFFICER MIRAGLIOTTA: -- the commerce information

1 will be CenTrio Energy South, LLC, herein the Employer, a  
2 Delaware limited liability company with an office and place of  
3 business located at 1661 Gravier Street, New Orleans, Louisiana  
4 70112. Provides chilled water and steam services to businesses  
5 in New Orleans. Annually, in the course and conduct of its  
6 business operations, the employer provides services valued in  
7 excess of \$50,000 to public utilities, transit systems,  
8 newspapers, healthcare institutions, broadcasting stations,  
9 commercial buildings, educational institutions, or retail  
10 concerns.

11 And so can the Employer stipulate to that amendment?

12 MS. JAGODA: Yes.

13 HEARING OFFICER MIRAGLIOTTA: And the Petitioner?

14 MS. BICHNER: Yes.

15 HEARING OFFICER MIRAGLIOTTA: Okay. Board Exhibit 4,  
16 already -- sorry -- Board Exhibit 3 already received into  
17 evidence is the statement of position for the Employer. The  
18 attachments, the commerce questionnaire, and the certificate of  
19 service. Board Exhibit 4 is the statement of position with  
20 attachments and certificate of service for the Union.

21 Board Exhibit 5, which has already been entered into  
22 evidence, (a) and (b), is COVID-19 data from the CDC and the  
23 New Orleans Dashboard. We are going to stipulate to one  
24 amendment to that exhibit as well, which is that on Board  
25 Exhibit 5(a), the COVID data information, the page is slightly

1 cut off beginning on page 4 of the exhibit. And so we want to  
2 have the parties stipulate that the seven-day moving averages  
3 for this exhibit are from January 21st, 2020, as the start of  
4 where those charts begin, through Sunday, August 15th, 2021.

5 So can the Employer stipulate to that date, that end date  
6 of Sunday, August 15th, 2021?

7 MS. JAGODA: That is -- I don't believe that is the end  
8 date for all of the charts listed in seven-day moving averages.  
9 I believe that Sunday, August 15th, 2021, is the end date for  
10 the first chart, which is -- it's case -- it starts with the  
11 information cases 2394. It's at the bottom of page 4 of the  
12 PDF.

13 HEARING OFFICER MIRAGLIOTTA: That's correct. And so --

14 MS. JAGODA: We would be correcting dates for different  
15 charts.

16 HEARING OFFICER MIRAGLIOTTA: Okay. So the -- it looks  
17 like the top chart, Sunday, August 15th has that date as well  
18 as for deaths the percent positivity date appears to be  
19 reflected through Friday August 13th, 2021, and Friday August  
20 13th, for testing volume as well.

21 Any other comments or issues regarding the dates on those  
22 seven-day moving averages or totals, percentages, and percent  
23 change in the last seven days?

24 Okay. Hearing no objections, we'll move forward.

25 Petitioner's Exhibit 1 is -- appears to be COVID data from

1 the CDC. Are there any objections to entering Petitioner's  
2 Exhibit 1 into the evidence?

3 MS. JAGODA: I'm sorry. Could -- could you repeat the  
4 question?

5 HEARING OFFICER MIRAGLIOTTA: Petitioner's Exhibit 1, we  
6 just never actually entered into evidence and we're making sure  
7 that that we do that time. So Petitioner's Exhibit 1 is the  
8 CDC data, again offered sort of under Federal Rule of Evidence  
9 903, and as -- as public information. So are there any  
10 objections to entering Petitioner Exhibit 1 onto the record?  
11 Sorry FRE-902.

12 MS. JAGODA: There's no objection to entering the  
13 information into the record. But Petitioner's Exhibit 1, I  
14 believe, was illegible. So for that reason, I -- I -- since  
15 the information is in Employer's -- I mean in the Boards  
16 Exhibit 5(a) I don't believe we need Petitioner's Exhibit 1.

17 MS. BICHNER: I can just withdraw it. That's fine.

18 HEARING OFFICER MIRAGLIOTTA: Okay. So we will withdraw  
19 Petitioner's Exhibit 1.

20 **(Petitioner Exhibit Number 1 Withdrawn)**

21 As for Petitioner's Exhibit 2, this appears to be data  
22 from the Louisiana Department of Health. Is there any  
23 objection to Petitioner's Exhibit 2 being entered into  
24 evidence?

25 MS. JAGODA: No objection.



1 HEARING OFFICER MIRAGLIOTTA: Okay. So that will be  
2 received.

3 **(Petitioner Exhibit Number 2 Received into Evidence)**

4 And then finally, Petitioner's Exhibit 3 is the -- the  
5 recent guidelines from the City of New Orleans for local  
6 gatherings, updated as of August 16th, 2021. It shows current  
7 guidelines for a modified phase 3. Are there any objections to  
8 Petitioner's Exhibit 3 being entered into evidence?

9 MS. JAGODA: I don't believe I saw that exhibit. Was that  
10 in the same email originally?

11 HEARING OFFICER MIRAGLIOTTA: It was in a separate email  
12 sent at 10:46 a.m.

13 MS. JAGODA: Ah, I did not see it. If -- if -- if I could  
14 have a moment to look at it.

15 HEARING OFFICER MIRAGLIOTTA: Sure.

16 MS. JAGODA: 10:46 a.m. If -- if -- if you don't mind,  
17 I'd just like to print this and -- and read it in a hard copy  
18 for a moment.

19 HEARING OFFICER MIRAGLIOTTA: Sure.

20 MS. JAGODA: Should this be printed in landscape or  
21 portrait? I guess it doesn't matter. All right.

22 HEARING OFFICER MIRAGLIOTTA: And Ms. Bichner, are you  
23 offering this under the same argument that it is publicly  
24 available information as well as, you know, under Federal Rule  
25 of Evidence 902?

1 MS. BICHNER: That's correct.

2 MS. JAGODA: We have no objection. The Employer has no  
3 objection to Petitioner's Exhibit 3. But it does leave me to  
4 either ask that another Employer be -- we have two Employer  
5 Exhibits that were marked for identification that haven't been  
6 put in evidence yet. And we may need either another Employer  
7 Exhibit, or I'm prepared to stipulate to something related to  
8 Petitioner's Exhibit 3.

9 HEARING OFFICER MIRAGLIOTTA: Okay. Well, as far as the  
10 other Employer Exhibits, we will be getting to those in just a  
11 moment when we go through the rest of the Employer Exhibits.  
12 What is it that you're looking to stipulate regarding  
13 Petitioner's Exhibit 3?

14 MS. JAGODA: Well, Petitioner's Exhibit 3 appears to be  
15 City modified phase 3 in effect August 16th, 2020 -- 2021. And  
16 the same website that, for which Petitioner provided the link  
17 to this exhibit, also indicates that there was a Parish-wide  
18 indoor mask mandate at -- for -- as of July 30th, 2021. And I  
19 think that should be in the record as well.

20 MS. BICHNER: I'll stipulate to that.

21 HEARING OFFICER MIRAGLIOTTA: Okay. So stipulated.

22 **(Petitioner Exhibit Number 3 Received into Evidence)**

23 HEARING OFFICER MIRAGLIOTTA: So let's see. So -- so  
24 we're just looking to stipulate that as of Friday, July 30th,  
25 2021, that the Mayor of New Orleans issued a Parish-wide indoor



1 mask mandate and required City employees and contractors to be  
2 vaccinated?

3 MS. JAGODA: Correct.

4 HEARING OFFICER MIRAGLIOTTA: Okay. So both parties have  
5 stipulated to that. And so just double-checking, Ms. Bichner,  
6 are there any other Petitioner exhibits?

7 MS. BICHNER: No other exhibits. Thank you.

8 HEARING OFFICER MIRAGLIOTTA: Okay. So then for the  
9 Employer Exhibits, which have already -- these three have been  
10 already received into evidence.

11 Employer Exhibit 1 is General Counsel's memo 20-01.  
12 Employer's Exhibit 2 is a map of a proposed manual election  
13 layout with two different proposals. Employer's Exhibit 3 is  
14 the declaration of Tatjana Zunjic.

15 And so then I would ask Ms. Jagoda about Petitioner's  
16 Exhibit 4 and 5, which have just been transmitted to the  
17 parties.

18 MS. JAGODA: Employer's Exhibit 4 for identification and 5  
19 are both larger, more legible excerpts from the Board's Exhibit  
20 5(b).

21 Employer Exhibit 4 is a -- a larger copy of the graph for  
22 new cases, seven-day rolling average. This is for the City of  
23 New Orleans, from the New Orleans dashboard. The source data  
24 for the website is on the exhibit. And this represents a  
25 screenshot that I cut and pasted.

1           Also there is a way on the website, because websites are  
2           dynamic, unlike paper, to where I -- where we -- if you click  
3           on a data point, you can have the ability to download some of  
4           the information as a table. And you'll see that there are two  
5           tables. One is the most recent information, which ends with  
6           August 16th, and goes back to August 5th. And below that I  
7           pasted an earlier swath of the data going back to August 1st.  
8           So this is just sort of an expanded version of the information  
9           that's already in Board Exhibit 5(b), but with more detail to  
10          the information and more legible.

11          HEARING OFFICER MIRAGLIOTTA: Okay. Well, before we get  
12          to Exhibit 5, is there any objection to Employer's Exhibit 4  
13          from the Petitioner?

14          MS. BICHNER: No objection.

15          HEARING OFFICER MIRAGLIOTTA: Okay. So Employer Exhibit 4  
16          is received into evidence.

17          **(Employer Exhibit Number 4 Received into Evidence)**

18          HEARING OFFICER MIRAGLIOTTA: And now, for Ms. Jagoda, for  
19          what is Employer's Exhibit 5.

20          MS. JAGODA: Okay. Employer's Exhibit 5 is the same thing  
21          relating to the chart on the New Orleans web -- the dashboard  
22          for the positive rate seven-day rolling average. There are two  
23          pages, because on that part of the Employer's Exhibit 5(b),  
24          there are actually two tables. One is a small insert of the  
25          other. So the larger table -- where did I put it -- where is

1 Employer's Exhibit -- the Board -- I mean, Board Exhibit 5(b).  
2 Excuse me. Wow. I printed it and have it somewhere.

3 But on that tiny little chart that was Board Exhibit 5(b),  
4 there is a chart -- there is a chart for seven-day positivity.  
5 And there's another chart as an insert. So pa -- page 1 of  
6 Exhibit 5 is the larger chart, which is seven-day rolling  
7 averages calculated on a daily basis. And the table show --  
8 shows the numbers from that chart in table form. The first  
9 table is from -- from today, August 17th, going back to August  
10 6th. And the table below that is for an overlapping period,  
11 August 7th, through July 27th. And then the second page is the  
12 smaller chart that was an insert, which was -- it -- there's a  
13 notation. It's LDH positive test rate. I believe that's  
14 Louisiana Department of Health -- positive test rate reports  
15 weekly. And the table shows the data again, in data form and  
16 shows that the most current data is July 28th on that smaller  
17 table.

18 HEARING OFFICER MIRAGLIOTTA: Okay. And is there any  
19 objection from the Petitioner to entering that into evidence?

20 MS. BICHNER: No objection.

21 HEARING OFFICER MIRAGLIOTTA: Okay. So Employer's Exhibit  
22 5 is entered into evidence as well. And I believe that that  
23 covers all of the exhibits at this time. Are there any other  
24 exhibits that need to be addressed?

25 **(Employer Exhibit Number 5 Received into Evidence)**



1 MS. BICHNER: None from the Petitioner.

2 HEARING OFFICER MIRAGLIOTTA: Okay. I will now allow the  
3 parties to submit their oral arguments. The parties are  
4 encouraged to address the issue of a mail ballot versus manual  
5 election and/or to cite cases in support of their position in  
6 their oral argument.

7 We'll begin with the Petitioner. So Ms. Bichner, you can  
8 please state your oral argument on the record.

9 MS. BICHNER: Great. Thank you. So according to Board  
10 precedent and relevant data, a mail-ballot election is more  
11 that appropriate in this case. As an initial matter and its  
12 decision in asks Aspirus Keweenaw, the Board outlined six  
13 situations where a mail-ballot election is proper due to the  
14 COVID-19 pandemic. Several of those situations are present are  
15 implicated here. One of those sit -- situations is where  
16 either the 14-day trend in the number of new confirmed cases of  
17 COVID-19 in a County where the facility is loca -- located is  
18 increasing, or the 14-day testing positivity rate in the County  
19 where the facility is located is five percent or higher.

20 In Louisiana -- and in the Parish where the election would  
21 be held specifically, the pandemic and rates of transmission  
22 are nearly the worst that they have ever been. According to  
23 the CDC data, which Petitioner has offered as an exhibit, the  
24 level -- and is included now in a Board's Exhibit, the level of  
25 community transmission in Orleans Parish is high. The most

1 severe level of community transmission of the agencies four  
2 designated categories.

3 According to the CDC, which I submit is the same data that  
4 the Board cited as relevant for judging this situation, in its  
5 Aspirus decision, the number of positive cases in the Parish  
6 have been increasing over the past 14 days, up another 5.05  
7 percent since Sunday, August 15th. Additionally, the 14-day  
8 testing positivity rate is more than double the 5 percent  
9 threshold set by the Board, at 11.02 percent as of August 13th.

10 The data provided by the City of New Orleans provides even  
11 a slightly higher rate at 12.2 percent. It is also worth  
12 noting that COVID deaths, new hospital admissions, and the  
13 percentage of ICU beds occupied in the area, are also rapidly  
14 increasing. Consequently, CDC data for the relevant geographic  
15 area more than establishes that a mail-ballot election is  
16 appropriate in this case.

17 Another situation identified in the Aspirus decision where  
18 a mail-ballot election is appropriate, is where there is a  
19 current outbreak at the facility. As we have heard from the  
20 Employer's own witnesses, at least one employee in the  
21 bargaining unit is currently positive for COVID-19, and others  
22 in and outside of the unit are quarantining due to potential  
23 exposure. Especially with a bargaining unit of about a dozen  
24 employees, these numbers are significant and demonstrative of  
25 the fact that employees could potentially be infected in the

1 time between now and the election.

2 Notably, this could impact the voter participation, should  
3 the election be held in person, where infected employees would  
4 not be able to participate. This and the other risks  
5 associated with holding an in-person election indoors, in a  
6 pandemic, that is about as worse as it ever -- as it ever has  
7 been in Orleans Parish, makes it clear that an in-person  
8 election would not only be more complicated, and not simpler,  
9 as the Employer's witness suggested, but a contravention of  
10 Board policy.

11 Another situation identified in Aspirus, is where the  
12 proposed manual election site cannot be established in a way  
13 that avoids violating mandatory State or local health orders  
14 relating to maximum gathering size. This is instructive.

15 Currently, the City of New Orleans is in a modified phase  
16 3, as of yesterday. As part of this phase, it is recommended  
17 that for certain indoor gatherings, people and even employees  
18 be required to either show proof of vaccination or a negative  
19 COVID test.

20 This guidance is at the very least instructive in this  
21 case, where there will be an election held among the employer's  
22 employees and representatives from other organizations such as  
23 the Labor Organization and representatives of the Board will  
24 all need to be present. And notably, during its presentation  
25 of evidence, the Employer did not provide any protocol for

1 insuring employees are vaccinated or would provide results of a  
2 negative COVID test. Quite to the contrary, the Employer  
3 advised it has at least one employee on staff who recently  
4 refused to get a COVID test. Nor did the Employer provide  
5 information about the vaccination rates among its employees.

6 It is also worth noting the fact that the employees in  
7 this unit -- it is also worth noting, that the fact that the  
8 employees in this unit may go to work every day is not a factor  
9 the Board has identified as relevant for consideration in  
10 deciding whether to order a mail-ballot election during the  
11 pandemic. This is despite the fact that the employees in the  
12 case, Aspirus, worked at an acute-care hospital and were, in  
13 fact, going to work every day. What is more, it appears that  
14 both of the two Employer witnesses today, they're not in the  
15 bargaining unit were testifying from their homes during work  
16 hours, and the Employer's witnesses testified that employees  
17 who do not need to be at the facility every day in order to  
18 perform their work outside of the bargaining unit, have the  
19 ability to work from home from the pandemic -- during the  
20 pandemic, and that's with good reason.

21 In any event, even under a normal circumstances, according  
22 to the Board's precedent regarding situations where mail-ballot  
23 elections are appropriate, as outlined in San Diego Gas 325  
24 NLRB 1143 in its progeny, it is well established that mail-  
25 ballot elections are appropriate where, among other situations,

1 eligible voters are scattered in a sense that their work  
2 schedules vary significantly, so they are not present at a  
3 common location at common times. Here, by the Employer's own  
4 admission, an election could not be conducted with the  
5 bargaining unit in one day. It would need to take place over  
6 the course of two days.

7       Again, even outside of the current public health crisis  
8 we're experiencing, a mail-ballot election would be appropriate  
9 here under long-standing Board precedent regarding a propriety  
10 of mail-ballot elections in certain situations. The  
11 circumstances of this pandemic make it doubly appropriate here.  
12 the Employer did not and cannot offer information or data that  
13 can dispute all of the overwhelming data and information  
14 demonstrating that a mail-ballot election is appropriate  
15 pursuant to board precedent.

16       Consequently, the Petitioner respectfully requests that a  
17 mail-ballot election be directed in a petition for a unit on  
18 the earliest practicable date.

19       HEARING OFFICER MIRAGLIOTTA: Thank you, Ms. Bichner. And  
20 just to clarify for the Court Reporter, I believe the first  
21 case that you referenced is that -- that's the Aspirus Keweenaw  
22 case, and that was 370 NLRB Number 45 from 2020?

23       MS. BICHER: That is correct.

24       HEARING OFFICER MIRAGLIOTTA: And then the second case, I  
25 believe you cited, was San Diego Gas and Electric 325 NLRB

1 1143, a case from 1998.

2 MS. BICHNER: That's correct.

3 HEARING OFFICER MIRAGLIOTTA: Okay. And we're -- those  
4 are the only two case citations?

5 MS. BICHNER: That's correct.

6 HEARING OFFICER MIRAGLIOTTA: Okay. And Ms. Jagoda, you  
7 can present your oral argument at this time.

8 MS. JAGODA: Yes. The -- they -- the -- leading Board  
9 case of relevance for the issue here is the Aspirus Keweenaw --  
10 Keweenaw case against Michi -- Michigan Nurses Association.  
11 But the Board did more in that case than just establish six  
12 factors. It -- the Board also reiterated its long-standing  
13 policy -- I'm reading from page 1 of the slip opinion -- long-  
14 standing policy favoring manual elections, which is also  
15 addressed further by the Board in the decision at pages 2 and 3  
16 of the slip opinion, that the rea -- the Board's current  
17 principles governing manual versus mail-ballot determinations  
18 are as follows. First, the Board has a lot -- long and proud  
19 tradition of conducting elections by manual balloting. I'll  
20 leave out of the cites. The reasons innumerate by the Board in  
21 this case were two. One is the value of having the -- a Board  
22 agent present at the election. And the other is, in addition  
23 to the value of having the Board -- a Board agent present,  
24 manual elections tend to promote greater participation in the  
25 election process.

1           There are subsequent cases citing this decision that refer  
2   to both of those values. And there is also a case in which the  
3   footnote notes that the -- the possibility that some ballots  
4   may be lost or delayed in the -- in -- in the mail, illustrates  
5   one rea -- another reason -- I'm -- I'm not quoting, I'm  
6   paraphrasing now, a reason why ma -- manual elections are and  
7   should be pervert -- preferred. The citation for that case is  
8   PromoWest Productions, Inc., and International Alliance of  
9   Theatrical Staged and -- International Alliance of Theatrical  
10   Stage Employees and Moving Picture Technicians, et cetera.  
11   IATSE. The cite is -- this is 20 -- case 09-RC-261089. I  
12   don't have a Board cite number for it, I have a Westlaw cite,  
13   2020 Westlaw 6955655.

14           So those -- those are the underlying policy  
15   considerations. And then, as for those six factors, it's also  
16   important to note that those are not a mandatory reason why the  
17   Board should be issuing a -- ordering a mail-in election. On  
18   page 7 of the slip opinion, the -- at the -- the Board says, to  
19   be sure, Regional Directors must continue to exercise their  
20   discretion in this area. The forgoing situations do not  
21   require a mail-in ballot.

22           So in this case, we urge the Regional Director to -- to  
23   adhere to the Board's longstanding principle favoring manual  
24   elections at -- rather than a mail-in ballot. And -- and --  
25   and the evidence that we've presented supports that, in this

1 small unit, a -- a manual election would be -- would further  
2 the Board's policies better and would be safe. And let's  
3 address the -- the factors in the case that have been raised by  
4 the Petitioner, as well as the one that she mentioned at the  
5 end of her oral argument.

6 First is factor 2 in the Keweenaw case. And that is the  
7 data. So in that -- in that issue, the issue there is -- let  
8 me find it. Okay. Here it is. Sorry. The 14-day trend in  
9 the number of new confirmed cases, or the 14-day positivity  
10 rate. And we have -- we have multiple sets of data to look at.  
11 Unfortunately, I don't have a cite for this. If I had had an  
12 opportunity to brief it, I would have provided you with a cite,  
13 but -- but I'm sure that you'll be able to find the cases.

14 There is caselaw discussing how the -- the Regional  
15 Director should look at the -- the most recent data closest to  
16 the date of the direction of election. So even those we put  
17 evidence in here at this hearing, really the Regional  
18 Director -- if the -- if the award is going to -- the direction  
19 of election is issued in a couple of days, ideally, the  
20 Regional Director would look at even updated information. But  
21 among the data such that we have in evidence here now, we  
22 have -- we have CDC data, we have -- I didn't see anything of  
23 relevance really in the Louisiana data, but we also have  
24 this -- the New Orleans data. The -- the issue here would  
25 be -- that the Board says 14 days. All of the data we have is

1 seven days, which is unfortunate, but that's the data that we  
2 have.

3 So let's look at this -- the CDC data, first of all and --  
4 and I -- I will look at -- we -- we can look at the Board  
5 Exhibit 5(a) for that. When it comes to new cases, I don't see  
6 in Ex -- in Board Exhibit 5(a), data on new cases. The first  
7 chart there, which is Sunday, data through August 15th, is  
8 cases. And in the case -- the -- the Board caselaw, there's a  
9 clear distinction between new cases and total cases. It's the  
10 percentage of new cases increasing or decreasing that's  
11 relevant.

12 And when we look at the City of New Orleans' data, and for  
13 that -- if that would Employer Exhibit 4. That is new case  
14 data, and it goes through a more recent time period anyway,  
15 August 16th. And that data shows that, in fact, the new  
16 cases -- most -- the most recent data is that the -- the new  
17 case rolling average is going down. Not going up. That's why  
18 it's so important to look at the most recent data available.  
19 In fact, the percentage is going down.

20 And that's why I want it on the record, and we stipulated  
21 that the Mayor on July 30th issued a mask mandate. The mask  
22 mandate is working. It took a little bit of time, but the  
23 numbers are now going back down. If you look visually, you can  
24 see on Exhibit 4, the trend is downward for a few dots. And if  
25 you look at the table, you can see that the peak number was on

1 August 9th, and that all the new case numbers on the seven-day  
2 rolling averages since then have been trending downward. So  
3 that data point does not support a mail-in election. It  
4 supports a manual election.

5 Now, the other data point that -- that's mentioned in the  
6 Keweenaw case is the -- the seven-day -- the 14-day positivity  
7 rate. And that, yes, the Board says it should be -- no -- it  
8 should be -- if it's five percent or higher, the region can  
9 order a mail-in election. Here, it's above five percent. But  
10 again, we need to look more specifically at the data that we  
11 have to see what's really happening.

12 The -- the -- the Petitioner mentioned the 12.2 increase  
13 percent number. That number is, again, out of date. That  
14 number comes from the insert chart on the City of New Orleans'  
15 dashboard. It's Employer Exhibit 5, page 2. That's where the  
16 12.2 percent comes from. That number was as of July 28th,  
17 which is now ancient history in the world of COVID -- COVID-19.  
18 That -- that is only data recorded weekly, and this report is  
19 only as of July 28th.

20 But the current data, which is actually through today, is  
21 Employer's Exhibit 5. And again, the numbers are trending  
22 down. If you look at this, you can see that -- that as of  
23 today, the -- the positivity rate is 8.37 percent. It had been  
24 higher. In -- on the -- the tables that I printed, looks like  
25 the highest was back in July. But it has -- has been trending

1 down ever since.

2 So in the context of everything in this unit having the  
3 one data point which is above five percent, should not be  
4 dispositive to determine -- that there should be a mail-in  
5 ballot here. All of the other evidence, and the Board's long-  
6 standing policy, fail -- favors having a manual election here.

7 So let's look at the next -- another factor, factor 5,  
8 whether there's a COVID outbreak. And the Employer -- yet --  
9 we did what the Board requires. We presented all of the  
10 evidence of -- about the last 14 days. And -- but does that  
11 mean, because there is somebody in the bargaining unit and some  
12 people who are quarantining, that that we should not have a  
13 man -- we should not have a manual election. No, it does not.

14 There is a Board decision, Rush University Medical Center.  
15 It's case number, well actually, I there here I do have a Board  
16 cite. 370 NLRB number 115, from April 27th, 2021, in which the  
17 Board found that just because COVID-19 is present at a  
18 facility, does not mean there should be a mail-in election.  
19 What's relevant in -- and I'll quote, this is from page 2 of  
20 the slip opinion, the Regional Director should determine -- I  
21 think this is the slip opinion. Again, my page cites may have  
22 been Westlaw cites rather than slip opinion cites and if so, I  
23 apologize. But I -- I'm reading from page 2 of what I printed,  
24 which actually is from Westlaw.

25 The Regional Director should determine whether the COVID-

1 19 cases at the facility would reasonably be expected to affect  
2 the conduct of a manual election. Relative considerations in  
3 this regard include whether the number or physical location of  
4 such cases, or the likelihood of that those cases that will  
5 result in -- in unit employees being exposed to COVID-19, or  
6 current COVID-19 cases among employees would -- would result in  
7 their disenfranchisement by a manual election.

8 So let's deal with item two there first. Current --  
9 current COVID-19 cases among unit employees. There's only one  
10 employee who has a current COVID-19 case. And he's expected  
11 back at work before the end of August. So that does not  
12 prevent a manual election. All of the -- the people that that  
13 employee has been -- was in contact with, are quarantining now  
14 and are also all expected back before the end of August. So  
15 that again, does not militate in favor of a mail-in election.

16 Further, the -- the fact that the -- the -- that it's --  
17 it's a small workforce where they -- they really don't work  
18 closely together. They've been wearing masks since long -- you  
19 know, throughout the pandemic, since long before the City --  
20 the Mayor of New Orleans started requiring masks -- or recently  
21 started requiring masks. And the fact that they're required to  
22 social distance and work -- it's so far away from each other  
23 within the plants. Those are reasons why there's no -- there's  
24 no basis for concluding that the people in the unit are at risk  
25 from having a manual election.

1           And in fact, whether there's a manual election or not, the  
2 employees will be coming to work. Because these are people who  
3 operate plants, they have to be on site. And they will be on  
4 site with one in the chiller plant and one in the boiler plant,  
5 and one going back and forth between the two, but not near each  
6 other, whether or not we have a manual election.

7           Now -- and -- and that leads us into fact -- factor 5.  
8 Which is the -- the -- the -- let's do -- yeah, which leads  
9 us -- which is the -- whether the employer can comply with the  
10 General Counsel memo guide protocols. And I -- we had strong  
11 testimony from Gordon Morrow -- from -- from the Employer on  
12 that point that, the company is absolutely committed to it,  
13 they -- they have put a lot of thought and effort into how to  
14 conduct the election in compliance with the protocols and more.  
15 In addition to the -- the safety -- the cleaning that they do  
16 consistently throughout the facilities, as a matter of just  
17 general safety, being an employer, and the middle of COVID,  
18 they would do their extra cleaning with their outside hy --  
19 hy -- hygiene contractor before and after each session of the  
20 election.

21           And there's -- there's -- everybody will be socially  
22 distanced from each other and there -- and since it's such a  
23 small unit, there's no -- there's no reason that there will be  
24 any -- any -- and people can be released from work on a  
25 staggered basis. There's no reason that even more than one, or

1 two, or possibly three voters even need to be anywhere near the  
2 polling place at the same time.

3 Then -- then moving on to the issue of what the Union has  
4 say -- said as scattered -- a scattered unit. In fact, the  
5 idea that an election will take place over a day and a half  
6 from 6 -- 6:30 in the morning one -- one session for an hour  
7 one day in the morning, and one session for an hour in the  
8 evening the next day, that's not really out of the usual. The  
9 Board has elections sometimes in large units going over many  
10 days. Here, it's a small unit, and it -- it -- it actually  
11 creates safety, that we don't have more than two shifts in the  
12 same place at the same time. But the -- the election -- a  
13 manual election, can still be done efficiently and within the  
14 Board's standard operating procedures, not anything out of the  
15 ordinary for a manual election. So that does not detract from  
16 the Board's long-standing presumption in favor of manual  
17 elections.

18 And then finally is the issue of this Petitioner's Exhibit  
19 3, which the Petitioner says it is proof of that -- that --  
20 that or -- is illustrative that having a mail-in election would  
21 violate State and Local mandates. Well, that's not what  
22 Petitioner's Exhibit 3 says. The -- the requirement for  
23 vaccines or -- or testing, according to Petition's (sic)  
24 Exhibit 3, is only for very limited indoor gatherings. It's  
25 indoor dining, indoor fitness, indoor entertainment and

1 performance basis. And that has nothing to do with this  
2 employer. And it -- as far as the mask mandate that's been  
3 effect since July, and -- and CenTrio was already doing it.  
4 It's one of the reasons why this election could be safe --  
5 should be -- is -- can be done in-person and safely.

6 So in -- in conclusion, the -- well one other thing that  
7 needs to be consid -- taken into consideration, again, is the  
8 size of the unit. Whether it's 12 or 13 people, it's a small  
9 unit. It's -- it's in the interest of everyone to have maximum  
10 participating in the election. It's Board policy. It's good  
11 for the workforce to have maximum participating. Every --  
12 every vote counts. And for that purpose, the -- the -- the --  
13 that's one of the reasons the Board has done it -- the policy  
14 is that they should -- they're manual. That's a particular  
15 circumstance here for this unit. That should be taken into  
16 consideration.

17 A manual election can be done safe -- safely. And --  
18 and -- we -- we respectfully submit that a manual election is  
19 what should take place here.

20 HEARING OFFICER MIRAGLIOTTA: Thank you. And just again  
21 to clarify the -- the citation you offered was Rush University  
22 Medical Center, that's 370 NLRB Number 115? From April 27th,  
23 2021 of this year.

24 MS. JAGODA: Yes. That was one citation.

25 HEARING OFFICER MIRAGLIOTTA: And then the other citation

1 was a IATSE case, that one was the one that I -- I missed some  
2 of the numbers on I think as well.

3 MS. JAGODA: Yeah. Okay. Yeah. I -- I only -- I have a  
4 case -- a -- a Board case number and a Westlaw cite.

5 HEARING OFFICER MIRAGLIOTTA: Okay.

6 MS. JAGODA: The Board case number is 09-RC-261089

7 HEARING OFFICER MIRAGLIOTTA: 261089. Okay.

8 MS. JAGODA: 261089. And the Westlaw cite is 2020 Westlaw  
9 6955655, and the date of this decision was November 25th, 2020.

10 HEARING OFFICER MIRAGLIOTTA: 6955655? Was that right?

11 MS. JAGODA: Yes.

12 HEARING OFFICER MIRAGLIOTTA: Yes. And that is PromoWest  
13 Productions and IATS. Got it.

14 MS. JAGODA: Right.

15 HEARING OFFICER MIRAGLIOTTA: Okay.

16 MS. JAGODA: Just said, IATS in the first place instead  
17 I'm trying to read the whole name there.

18 HEARING OFFICER MIRAGLIOTTA: Sure -- sure. Okay.

19 So then, I would inquire with the Court Report. First,  
20 Mr. Baldwin, do you have all of the exhibits now that have been  
21 offered into evidence? And would you be able to offer any sort  
22 of estimation on the number of pages of the transcript? Okay.

23 Okay. Is there anything further from the Petitioner?

24 MS. BICHNER: Nothing further from the Petitioner.

25 HEARING OFFICER MIRAGLIOTTA: Anything further from the

1 Employer?

2 MS. JAGODA: Nothing further from the Employer.

3 HEARING OFFICER MIRAGLIOTTA: Okay. If there's nothing  
4 further, the hearing will be closed, and we can go off the  
5 record.

6 **(Whereupon, the hearing in the above-entitled matter was closed**  
7 **at 3:45 p.m.)**

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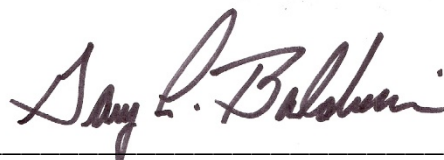
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C E R T I F I C A T I O N

This is to certify that the attached proceedings, via Zoom videoconference, before the National Labor Relations Board (NLRB), Region 15, Case Number 15-RC-280545, Centrio Energy South LLC and UA Plumbers and Steamfitters Local Union 60, held at the National Labor Relations Board, Region 15, 600 South Maestri Place 7th Floor, New Orleans, LA 70130-3413, on August 17, 2021, at 10:24 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



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GARY BALDWIN  
Official Reporter

NATIONAL LABOR RELATIONS BOARD  
CLOSE OF R, UD, UC, AC, OR 10(k) CASE HEARING

**INSTRUCTIONS TO REGION:** Hearing Officer to complete in duplicate at close of hearing. Forward original to Information Technology Branch, Washington, with copy of Petition (if amended, copy of last amended Petition) attached. No attachment required in 10(k) case. Retained copy of this form in Region. \*Not applicable in 10 (k) cases.

CASE NAME CenTrio		CASE NUMBER(s) 15-RC-280545
DATE PETITION FILED* July 28, 2021	DATE NOTICE OF HEARING ISSUED* July 28, 2021	H. HAVE PARTIES BEEN SERVED WITH ORDER TRANSFERRING CASE TO BOARD? * <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, GIVE DATE OF SUCH ACTION _____ SIGNATURE <u><i>[Signature]</i></u> (Hearing Officer)
A. DATE HEARING OPENED August 17, 2021	B. DATE HEARING OPENED ON OBJECTIONS AND/OR CHALLENGES	
C. ADJOURNED	D. REOPENED	<b>WASHINGTON ROUTING INSTRUCTIONS:</b> a. If "No" box in item H is checked: 1. Information Technology Branch 2. Division of Operations-Management b. If "Yes" box in item H is checked: Case Records Unit c. If 10(k) hearing: 1. Information Technology Branch 2. Order Section 3. Executive Secretary's Office 4. Case Records Unit
E. DATE HEARING CLOSED August 17, 2021	F. ESTIMATED NUMBER OF TRANSCRIPT PAGES 120 pages	
G. BRIEFS DUE DATE n/a		

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 15

In the Matter of:

CENTRIO ENERGY SOUTH LLC, Case No. 15-RC-280545

Employer,

and

UA PLUMBERS AND STEAMFITTERS  
LOCAL UNION 60,

Petitioner.

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EMPLOYER EXHIBITS

Place: New Orleans, Louisiana (via Zoom Videoconference)

Dates: August 17, 2021

OFFICIAL REPORTERS

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**OFFICE OF THE GENERAL COUNSEL**

**MEMORANDUM GC 20-10**

**July 6, 2020**

TO: All Regional Directors, Officers-in Charge, and Resident Officers

FROM: Peter B. Robb, General Counsel

SUBJECT: Suggested Manual Election Protocols

After discussions with Regional Directors, the NLRB Division of Operations-Management, NLRB COVID-19 Task Force Members and our internal union, we are releasing the following suggested manual election protocols. These suggested protocols were developed collaboratively in an effort to determine how best to conduct manual elections safely and efficiently in this unprecedented environment. The Regional Directors have authority delegated by the Board to make initial decisions about when, how, and in what manner all elections are conducted. They have made, and will continue to make, these decisions on a case-by-case basis, considering numerous variables, including, but not limited to, the safety of Board Agents and participants when conducting the election, the size of the proposed bargaining unit, the location of the election, the staff required to operate the election, and the status of pandemic outbreak in the election locality. We recognize that the Board has the ultimate authority to make decisions on when, how and in what manner elections are conducted, whether on review of Regional Director decisions or through other guidance or rules.

**SUGGESTED MANUAL ELECTION PROTOCOLS**

**1. Election Mechanics**

- A. Polling times procedures for releasing voters must be sufficient to accommodate social distancing/cleaning requirements, without endangering participants by unnecessarily elongating exposure among Board Agents and observers.
- B. Any election agreement or Direction of Election should specify:
  - The maximum number of representatives for each party who can attend the pre-election conference and the ballot count;
  - Whether there will be a voter release schedule to ensure that voters are not crowded, depending on circumstances of the election;
  - The number of voter lists; and
  - The number of observers per party during the election, which should be limited to one each where feasible.
- C. Only one voter will approach the observers' table(s) and election booth(s) at a time to ensure social distancing.
- D. After clearance by the observers, the Board Agent will place an individual ballot on table for the voter and then step back to maintain social distance.

EXHIBIT NO. E-1 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME CenTrio Energy South

NO OF PAGES 7 DATE: 8-17-21 REPORTER: Gary Baldwin

- E. Voting will include use of newer cardboard booths, if available, which are easier to keep clean than the older aluminum booth. The Board Agent will disinfect the booth before it is brought back into the NLRB office and before any other employees handle it.
- F. If more than one booth is used, booths must be more than six feet apart.

## **2. Certifications required:**

- A. No earlier than 48 hours before the election but no later than 24 hours before the election, the employer must (Attachment A):
  - Certify in writing that the polling area is consistently cleaned in conformity with established CDC hygienic and safety standards;
  - Certify in writing how many individuals have been present in the facility within the preceding 14 days, who:
    - have tested positive for COVID-19 (or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested) within the prior 14 days;
    - are awaiting results of a COVID-19 test;
    - are exhibiting symptoms of COVID-19, including a fever of 100.4 or higher, cough, or shortness of breath; or
    - have had direct contact with anyone in the previous 14 days who has tested positive for COVID-19 (or who is awaiting test results for COVID-19 or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested).
- B. If the above certifications are not timely provided, the Regional Director or designee (i.e. manager or supervisory employee) has the discretion to cancel the election.
- C. Based on the certifications, the Regional Director will consider whether the election should be held as scheduled.
- D. Each party, party representative and observer participating at the pre-election conference, serving as an election observer, or participating in the ballot count, must certify in writing that, within the preceding 14 days (Attachment B):
  - They have not tested positive for COVID-19 (or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested) within the prior 14 days;
  - They are not awaiting results of a COVID-19 test; or
  - They have not had direct contact with anyone in the previous 14 days who has tested positive for COVID-19 (or who is awaiting test results for COVID-19 or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested).
  - Individuals who do not provide such certifications will not be permitted to be physically present at the pre-election conference, to serve as an observer, or at the ballot count.
  - Individuals who are not a party, party representative or an observer, must stay at least 15 feet away from the Board Agent at the pre-election conference or the ballot count.

**3. All parties must agree in writing to notify the Regional Director, within 14 days after the day of the election, if any individuals who were present in the facility on the day of the election:**

- have tested positive for COVID-19 (or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested) within the prior 14 days;
- are awaiting results of a COVID-19 test;
- are exhibiting symptoms of COVID-19, including a fever of 100.4 or higher, cough, shortness of breath; or
- have had direct contact with anyone in the previous 14 days who has tested positive for COVID-19 (or who are awaiting test results for COVID-19 or have been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested).

**4. Election Arrangements to Be Included in Election Agreement**

- A. Spacious polling area, sufficient to accommodate six-foot distancing, which should be marked on the floor with tape to insure separation for observers, Board Agent, and voters.
- B. Separate entrance and exit for voters, with markings to depict safe traffic flow throughout polling area.
- C. Separate tables spaced six feet apart so Board Agent, observers, ballot booth and ballot box are at least six feet apart.
- D. The Employer will provide markings on the floor to remind/enforce social distancing.
- E. The Employer will provide sufficient disposable pencils without erasers for each voter to mark their ballot.
- F. The Employer will provide glue sticks or tape to seal challenge ballot envelopes.
- G. The Employer will provide plexiglass barriers of sufficient size to protect the observers and Board Agent to separate observers and the Board Agent from voters and each other, pre-election conference and ballot count attendees, as well as masks, hand sanitizer, gloves and wipes for observers.
- H. The Agency will provide to the Board Agent(s) running the election a face shield, mask, disposable clothes covering if requested, hand sanitizer, gloves and disinfecting wipes.
- I. An inspection of the polling area will be conducted by video conference at least 24 hours prior to the election so that the Board Agent and parties can view the polling area.
- J. In accordance with CDC guidance, all voters, observers, party representatives, and other participants should wear CDC-conforming masks in all phases of the election, including the pre-election conference, in the polling area or while observing the count. Signs will be posted in or immediately adjacent to the Notice of Election to notify voters, observers, party representatives and other participants of this requirement.

Election Agreements and DDEs must include the details set forth above. Rather than including a lengthy narrative description of safety measures directly on the Notice of Election (“NOE”) the NOE must affirm that appropriate safety measures will be enforced prior to and during the election and subsequent count.

### **Procedures for Assignment of Manual Elections:**

- A. Regional Directors are encouraged to assign the election to Board Agents who have volunteered to run the election.

### **5. Elections Requiring Travel**

- A. The Agency will supply the Agent with hand sanitizer, gloves and disinfecting wipes to clean the car throughout the trip and pumping gas. See [CDC guidelines for pumping gas<sup>1</sup>](#).
- B. Concerns regarding hotel arrangements and travel via air will be handled at the Regional level. Guidance on cleaning measures undertaken by various hotel chains can be found on [FedRooms](#).
- C. Board Agents who want to use taxis or private vehicles to travel to and from local elections, even if reachable by mass transit, must secure approval from the Regional Director in advance of the election.

Finally, although we appreciate the effort of all who have assisted in developing these Suggested Guidelines, we recognize that the COVID-19 pandemic is still evolving and that circumstances can change. In the end, the decisions on election procedures and the safety of all participating in an election remain in the sound discretion of the Regional Director.

/s/

P.B.R.

Attachments

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<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/essential-goods-services.html>

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

## CERTIFICATIONS\*

The polling area is consistently cleaned in conformity with established CDC hygienic and safety standards

\_\_\_\_\_ Yes \_\_\_\_\_ No

Within the preceding 14 days, the number of individuals have been present in the facility who:

Have tested positive for COVID-19 (or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested) within the prior 14 days	
Are awaiting results of a COVID-19 test	
Are exhibiting symptoms of COVID-19, including a fever of 100.4 or higher, cough, or shortness of breath	
Have had contact with anyone in the previous 14 days who has tested positive for COVID-19 (or who is awaiting test results for COVID-19 or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested)	

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\* Must be submitted to the Regional Director no earlier than 48 hours before the election but no later than 24 hours before the election. If the certification is not timely provided, the Regional Director or designee has the discretion to cancel the election.

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

## CERTIFICATIONS\*

Within the preceding 14 days, the individual named below (please initial below):

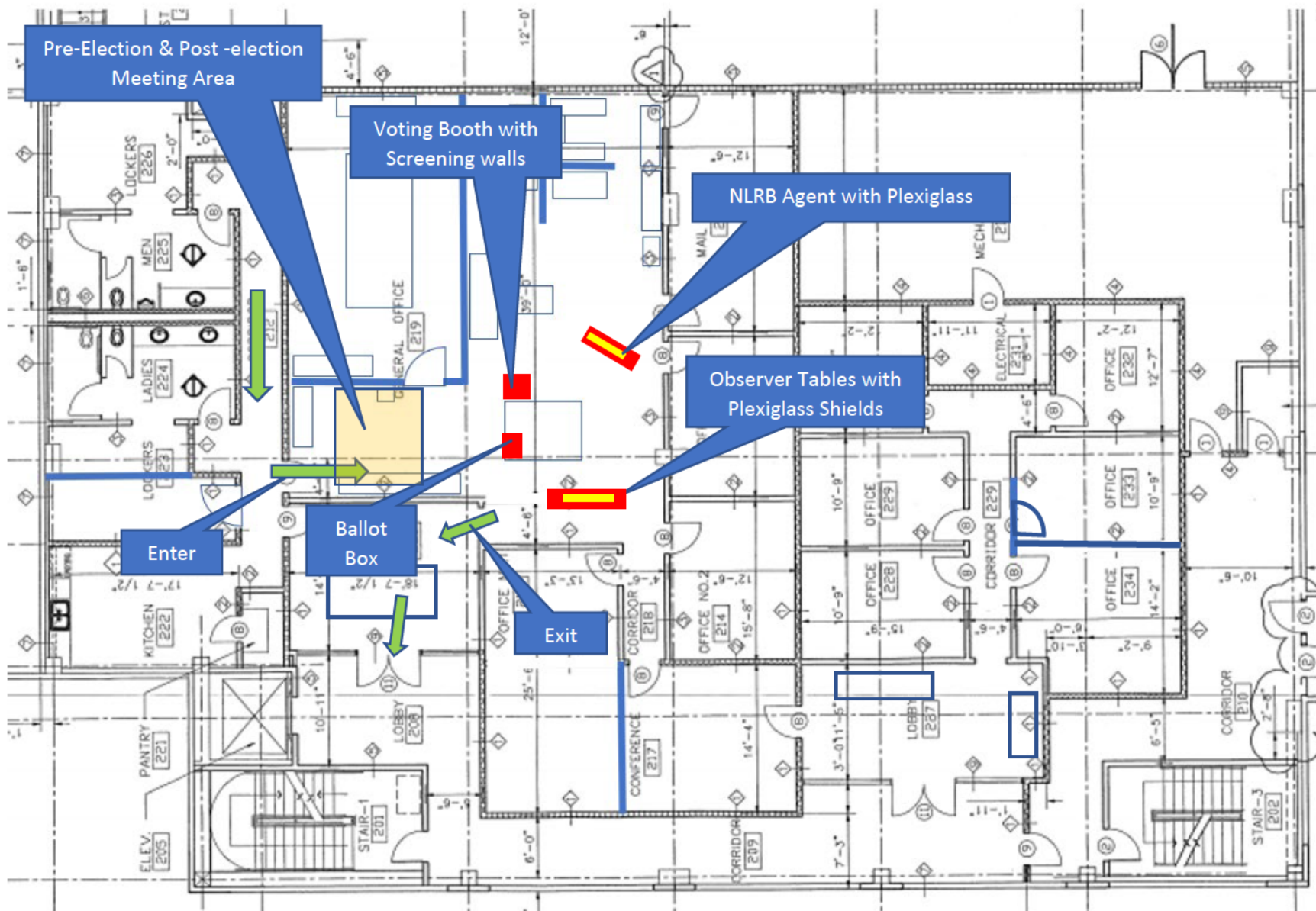
Has not tested positive for COVID-19 (or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested) within the prior 14 days	
Is not awaiting results of a COVID-19 test	
Is not exhibiting symptoms of COVID-19, including a fever of 100.4 or higher, cough, or shortness of breath	
Has not had contact with anyone in the previous 14 days who has tested positive for COVID-19 (or who is awaiting test results for COVID-19 or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested)	

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\* Must be submitted to the Board agent in order to participate in the pre-election conference or at the ballot count or serve as an observer.

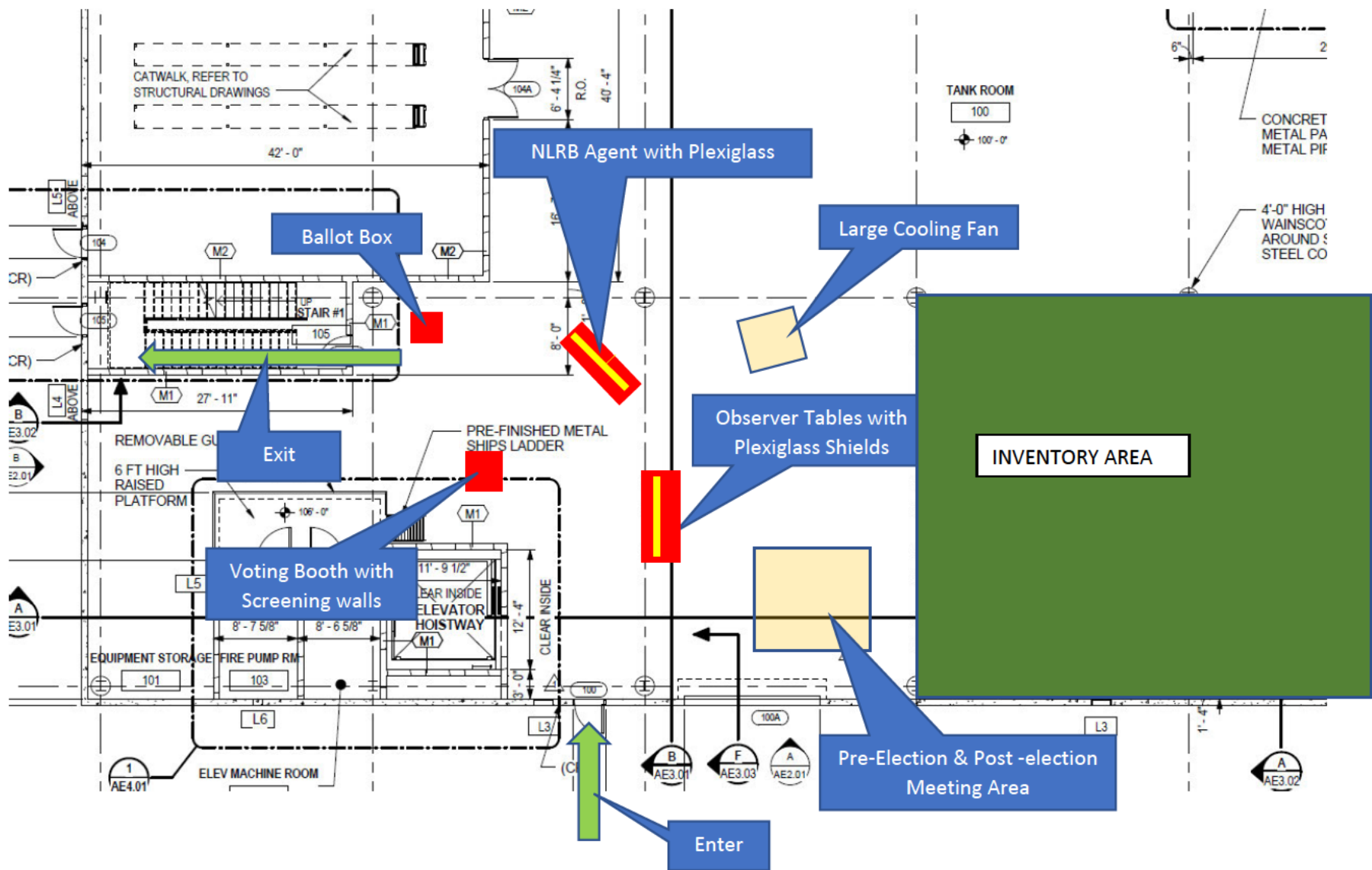


Proposed Voting Layout 2<sup>nd</sup> Floor Chiller Plant

EXHIBIT NO. E-2 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME Centrio Energy South

NO OF PAGES 3 DATE: 8-17-21 REPORTER: Gary Baldwin



Proposed Voting Layout 1<sup>st</sup> Floor Boiler Plant

**CenTrio Energy South LLC**

**NLRB Case No. 15-RC-280545**

**DECLARATION OF TATJANA ZUNJIC**

I, Tatjana Zunjic, 28 U.S.C. § 1746, declare as follows:

1. I am Manager of Human Resources for CenTrio Energy South LLC ("CenTrio").

I make this declaration based on my personal knowledge, information and belief, in support of CenTrio's request for a manual election.

2. CenTrio has strict COVID-19 protocols, including daily screening of individuals who come on the premises, and requirements for self-isolation of employees who do not pass the screening. In the last fourteen days, there has been only one individual in the petitioned-for unit who has tested positive for COVID-19, has exhibited characteristic symptoms of COVID-19, has reported having contact with anyone who has tested positive in the previous 14 days, or who is awaiting COVID-19 test results. That individual exhibited symptoms during a seven-days off period for his shift and is self-isolating in accordance with CenTrio's policies. He is expected to be able to return to work by August 26, 2021, provided that he does not exhibit symptoms in the 24 hours before returning. Contact tracing of that individual identified a temporary worker who has started showing symptoms. That individual has declined testing and will self-isolate for fourteen days. In addition, all other individuals who were on the same shift as the employee who tested positive, who were on the shift that relieved that shift, or who may have had contact with the employee at the Company's facilities have been asked to tested and will self-isolate for 10 days from their last contact with the employee who tested positive. They are expected to be able to return to work on August 23, 2021.

3. Two other individuals not in the petitioned-for unit who were present at CenTrio's New Orleans facilities in the last fourteen days tested positive for COVID-19 or exhibited

EXHIBIT NO. E-3 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME Centrio Energy South

NO OF PAGES 4 DATE: 8-17-21 REPORTER: Gary Baldwin

characteristic symptoms of COVID-19. Those individuals have not been at the facilities since August 5 and 10. Neither is a supervisor of the employees in the petitioned-for unit, nor did either have non-socially distanced contact with members of the petitioned-for bargaining unit during the last 14 days.

4. Two other individuals not in the petitioned-for unit who were present at CenTrio's New Orleans facilities in the last fourteen days have had contact with someone who, in the past 14 days, tested positive for COVID-19. One is awaiting test results, and the other tested negative for COVID-19. Each of these individual's contacts with someone who tested positive within the past fourteen days occurred after the last time the individual was at CenTrio's facilities. Moreover, neither is a supervisor of the employees in the petitioned-for unit, nor did either have non-socially distanced contact with members of the petitioned for bargaining unit during the last 14 days.

I declare under penalty of perjury that the foregoing is true and correct.

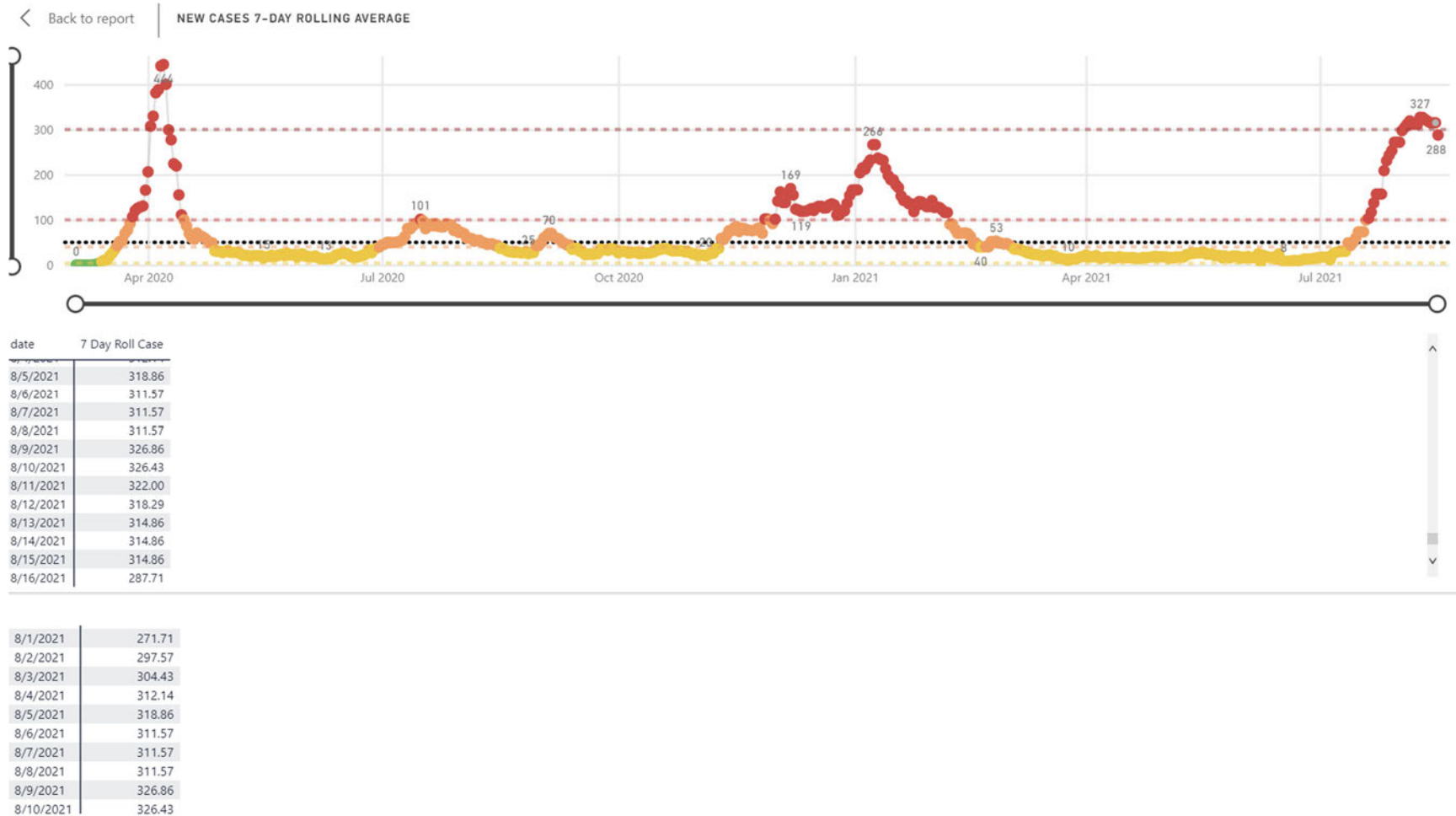


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Tatjana Zunjic



## Employer Exhibit 4 for Identification



Source: [ready.nola.gov/incident/coronavirus](https://ready.nola.gov/incident/coronavirus)

Click “view the dashboard” and “show as table”

URL:

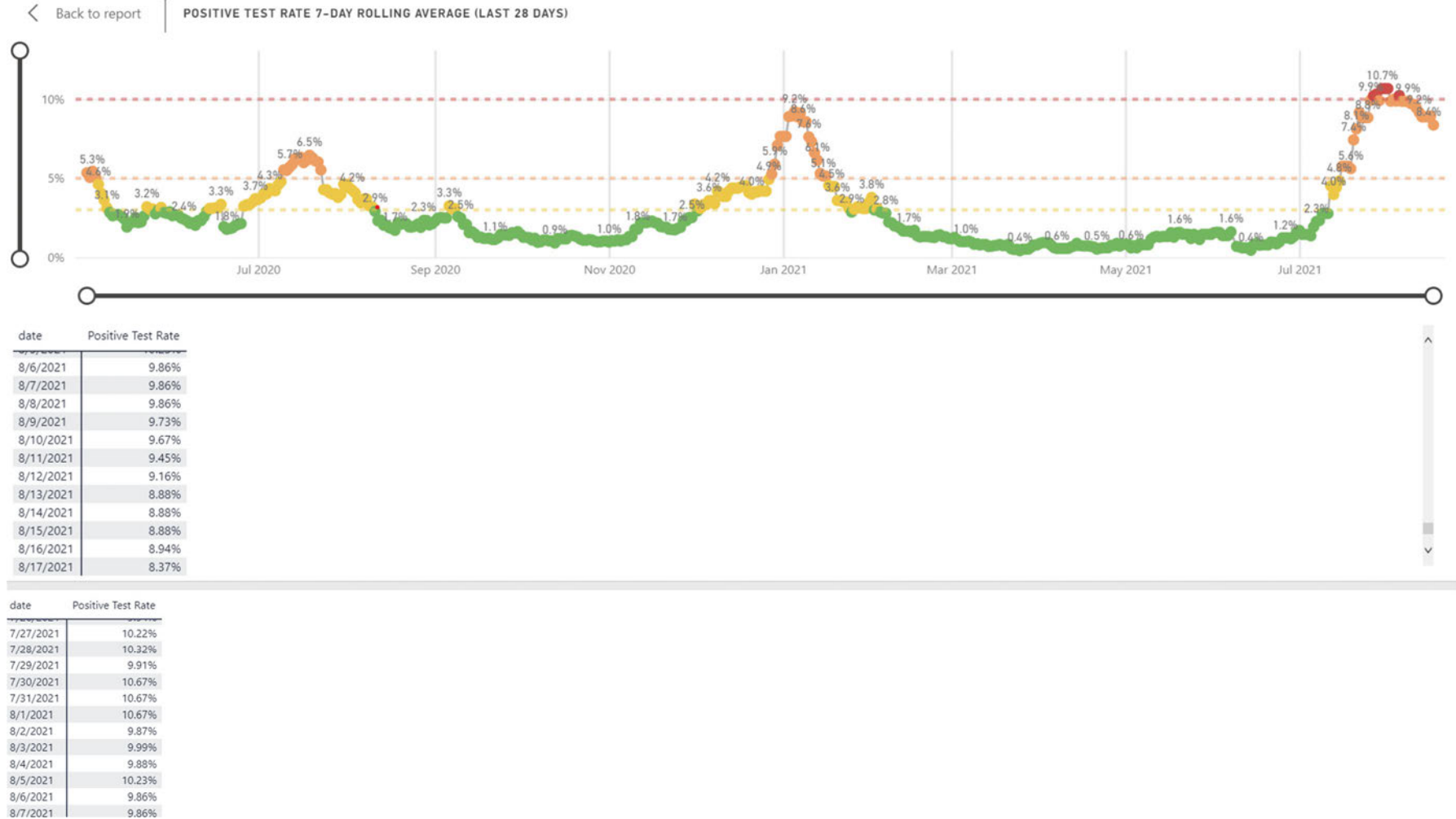
<https://app.powerbigov.us/view?r=eyJrIjoiaWUxZjFjM2ItOTI0ZS00MTcxLWJjYjgtODQwNzg2MDRhMmU3IiwidCI6IjA4Y2JmNDg1LTJjYjgtNGEwMi05YTIxLTBkZDliNDViOWZmNyJ9&pageName=ReportSection>

EXHIBIT NO. E-4 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME CenTrio Energy South

NO OF PAGES 2 DATE: 8-17-21 REPORTER: Gary Baldwin

## Employer Exhibit 5 for Identification



Source: [ready.nola.gov/incident/coronavirus](https://ready.nola.gov/incident/coronavirus)

Click “view the dashboard” and, on the pertinent chart, “show as table”

URL: <https://app.powerbigov.us/view?r=eyJrIjoibWUxZjFjM2ltOTI0ZS00MTcxLWJjYjgtODQwNzg2MDRhMmU3IiwidCI6IjA4Y2JmNDg1LTJFjYjctNGEwMi05YTIxLTBkZDliNDViOWZmNyJ9&pageName=ReportSection>

EXHIBIT NO. E-5 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME Centrio Energy South

NO OF PAGES 3 DATE: 8-17-21 REPORTER: Gary Baldwin

## Employer Exhibit 5 for Identification



Source: [ready.nola.gov/incident/coronavirus](https://ready.nola.gov/incident/coronavirus)

Click “view the dashboard” and, on the pertinent chart, “show as table”

URL: <https://app.powerbigov.us/view?r=eyJrIjoiaWUxZjFjM2ItOTI0ZS00MTcxLWJjYjgtODQwNzg2MDRhMmU3IiwidCI6IjA4Y2JmNDg1LTJjYjctNGEwMi05YTlxLTBkZDliNDViOWZmNyJ9&pageName=ReportSection>

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 15

In the Matter of:

CENTRIO ENERGY SOUTH LLC, Case No. 15-RC-280545

Employer,

and

UA PLUMBERS AND STEAMFITTERS  
LOCAL UNION 60,

Petitioner.

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BOARD EXHIBITS

Place: New Orleans, Louisiana (via Zoom Videoconference)

Dates: August 17, 2021

OFFICIAL REPORTERS

eScribers, LLC

E-Reporting and E-Transcription  
7227 North 16th Street, Suite 207  
Phoenix, AZ 85020  
(602) 263-0885



**CenTrio  
15-RC-280545**

**INDEX AND DESCRIPTION OF FORMAL DOCUMENTS**

<b>Board Exhibit No.</b>	<b>(a)</b>	<b>Original Petition in Case 15-RC-280545, filed July 28, 2021</b>
	<b>(b)</b>	<b>Original Notice of Representation Hearing with Form NLRB-4669 attached, dated July 28, 2021</b>
	<b>(c)</b>	<b>Original Affidavit of Service of 1(a) and 1(b), dated July 28, 2021</b>
	<b>(d)</b>	<b>Index and Description of Formal Documents</b>

EXHIBIT NO. B-1 (d-a) RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME CenTrio Energy South

NO OF PAGES 16 DATE: 8-17-21 REPORTER: Gary Baldwin

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<p><b>CenTrio</b></p> <p style="text-align: center;"><b>Employer</b></p> <p style="text-align: center;"><b>and</b></p> <p><b>UA Plumbers and Steamfitters Local Union 60</b></p> <p style="text-align: center;"><b>Petitioner</b></p>	<p><b>Case 15-RC-280545</b></p>
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**AFFIDAVIT OF SERVICE OF: Petition dated July 28, 2021, Notice of Representation Hearing dated July 28, 2021, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 28, 2021, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Kathleen Bichner, Attorney  
O'Donoghue & O'Donoghue, LLP  
325 Chestnut Street, Suite 600  
Philadelphia, PA 19106  
kbichner@odnoghuelaw.com

ralbin@uanet.org  
UA Plumbers and Steamfitters  
Local Union 60  
3515 N. I-10 Service Road  
Metairie, LA 70002

Gordon Morrow, Director of Plant Operations  
CenTrio  
1661 Gravier Street  
New Orleans, LA 70112  
gordon.morrow@centrioenergy.com

AVTranz Reporting via email  
@reporting@escribers.net

July 28, 2021

Date

Cristina Sanchez, Designated Agent of NLRB

Name

/s/ Cristina Sanchez

Signature



UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15



<b>CenTrio</b>  <b>Employer</b>  <b>and</b>  <b>UA Plumbers and Steamfitters Local Union 60</b>  <b>Petitioner</b>	<b>Case 15-RC-280545</b>
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**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

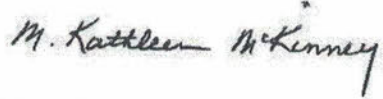
YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 a.m. on **Tuesday, August 17, 2021** and on consecutive days thereafter until concluded at, Zoom Hearing, New Orleans, Louisiana, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, CenTrio must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that it is received by them by no later than **noon** Central time on **Monday, August 9, 2021**. Following timely filing and service of a Statement of Position by CenTrio, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Central on **Thursday, August 12, 2021**.

**Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden.** Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: July 28, 2021



/by cs

---

M. Kathleen McKinney  
Regional Director  
National Labor Relations Board  
Region 15  
600 South Maestri Place, 7th Floor  
New Orleans, LA 70130-3413

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE  
THE NATIONAL LABOR RELATIONS BOARD PURSUANT TO PETITIONS FILED  
UNDER SECTION 9 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted before a Hearing Officer of the National Labor Relations Board.

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. *(Copies of exhibits should be supplied to the Hearing Officer and other parties at the time the exhibit is offered in evidence.)* After the close of the hearing, one or more of the parties may wish to have corrections made in the record. All such proposed corrections, either by way of stipulation or motion, should be forwarded to the Regional Director or to the Board in Washington *(if the case is transferred to the Board)* instead of to the Hearing Officer, inasmuch as the Hearing Officer has no power to make any rulings in connection with the case after the hearing is closed. All matter that is spoken in the hearing room will be recorded by the official reporter while the hearing is in session. In the event that any party wishes to make off-the-record remarks, requests to make such remarks should be directed to the Hearing Officer and not to the official reporter.

Statements of reasons in support of motions or objections should be as concise as possible. Objections and exceptions may, on appropriate request, be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

All motions shall be in writing or, if made at the hearing, may be stated orally on the record and shall briefly state the order of relief sought and the grounds for such motion. An original and two copies of written motions shall be filed with the Hearing Officer and a copy thereof immediately shall be served on the other parties to the proceeding.

The sole objective of the Hearing Officer is to ascertain the respective positions of the parties and to obtain a full and complete factual record on which the duties under Section 9 of the National Labor Relations Act may be discharged by the Regional Director of the Board. It may become necessary for the Hearing Officer to ask questions, to call witnesses, and to explore avenues with respect to matters not raised by the parties. The services of the Hearing Officer are equally at the disposal of all parties to the proceedings in developing the material evidence.

At the close of hearing, any party who desires to file a brief may do so in the appropriate manner described below.

**1. Briefs filed with the Regional Director**

Unless transfer of the case to the Board is announced prior to close of hearing, the brief should be filed in duplicate with the Regional Director. A copy must also be served on each of the other parties and proof of such service must be filed with the Regional Director at the time the briefs are filed. Briefs submitted are to be double-spaced on 8½ by 11 inch paper.

The briefs shall be filed within 7 days after the close of the hearing unless an extension of time, not to exceed an additional 14 days on request made for good cause, before the hearing closes, is granted by the Hearing Officer. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. Facsimile transmission of briefs is not permitted.

A request for an extension of time made after the close of the hearing must be received by the Regional Director, in writing, as much in advance of the date the briefs are due as possible and copies thereof must be served on the other parties by the same or faster method as used to file with the Regional Director (see 102.114 of Board's Rules).

2. Briefs filed with the Board in Washington, D.C.

a. If transfer of case to the Board is announced at the hearing

Should any party desire to file a brief with the Board, eight copies thereof shall be filed with the Board in Washington, D.C. Immediately on such filing, a copy shall be served on each of the other parties. Proof of such service must be filed with the Board simultaneously with the briefs. Such brief shall be printed on otherwise legibly duplicated: Provided, however, that carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. No reply brief may be filed except on special leave of the Board. Any brief filed after transfer of the case to the Board shall be double-spaced on 8½ by 11 inch paper.

The briefs shall be filed within 7 days after the close of hearing unless an extension of time, not to exceed an additional 14 days on request made for good cause, before the hearing closes, is granted by the Hearing Officer. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. Facsimile transmission of briefs is not permitted.

b. Transfer of cases to the Board effected after close of hearing

Pursuant to Section 102.67 of the Board's Rules, the Regional Director may, at any time after the close of hearing and before decision, transfer a case to the Board for decision. The order transferring the case will fix a date for filing briefs in Washington, D.C.

If a brief has already been filed with the Regional Director, the parties may file eight copies of the same brief with the Board in the same manner as set forth in "a," above, except that service on other parties is not required. No further briefs shall be submitted except by special permission of the Board.

If the case is transferred to the Board before the time expires for filing of briefs with the Regional Director and before the parties have filed briefs, such briefs shall be filed as set forth in "a," above.

c. Request for extension of time to file briefs with the Board

A request for an extension of time to file briefs with the Board in Washington, D.C., made after the close of hearing must be received by the Executive Secretary's Office in Washington as much in advance of the date the briefs are due as possible but in any event no later than the close of business on the due date. Such request must be in writing and a copy shall be served immediately on each of the other parties and the Regional Director and shall contain a statement that such service has been made.

As provided in Section 102.114(a) and (e) of the Board's Rules and Regulations, service on all parties of a request for an extension of time shall be made in the same or faster manner as that utilized in filing the paper with the Board; however, when filing with the Board is accomplished by facsimile transmission or by personal service, the other parties shall be promptly notified of such action by facsimile transmission or by telephone, followed by service of a copy personally or by overnight delivery service.

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.

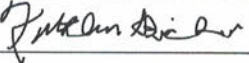
15-RC-280545

Date Filed

July 28, 2021

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov/](http://www.nlr.gov/), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

<b>2a. Name of Employer:</b> CenTrio		<b>2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code):</b> 1661 Gravier Street, New Orleans, Louisiana 70112	
<b>3a. Employer Representative - Name and Title:</b> Gordon Morrow, Director of Plant Operations		<b>3b. Address (if same as 2b - state same):</b> Same	
<b>3c. Tel. No.</b> (504) 569-2135	<b>3d. Cell No.</b>	<b>3e. Fax No.</b>	<b>3f. E-Mail Address</b> Gordon.morrow@centrioenergy.com
<b>4a. Type of Establishment (Factory, mine, wholesaler, etc.)</b> Energy solutions provider		<b>4b. Principal Product or Service</b> Energy solutions	
<b>5b. Description of Unit Involved:</b> <b>Included:</b> See attached. <b>Excluded:</b> See attached		<b>5a. City and State where unit is located:</b> New Orleans, LA	
		<b>6a. Number of Employees in Unit:</b> 11	
		<b>6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Check One:</b> <input type="checkbox"/> <b>7a. Request for recognition as Bargaining Representative was made on (Date)</b> _____ and Employer declined recognition on or about (Date) _____ (If no reply received, so state). <input type="checkbox"/> <b>7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.</b>			
<b>8a. Name of Recognized or Certified Bargaining Agent (If none, so state)</b> None		<b>8b. Address:</b>	
<b>8c. Tel. No.</b>	<b>8d. Cell No.</b>	<b>8e. Fax No.</b>	<b>8f. E-Mail Address</b>
<b>8g. Affiliation, if any:</b>		<b>8h. Date of Recognition or Certification</b>	<b>8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)</b>
<b>9. Is there now a strike or picketing at the Employer's establishment(s) involved?</b> <b>No</b> <input checked="" type="checkbox"/> If so, approximately how many employees are participating? _____ (Name of Labor Organization) _____, has picketed the Employer since (Month, Day, Year) _____			
<b>10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)</b> None			
<b>10a. Name</b>	<b>10b. Address</b>	<b>10c. Tel. No.</b>	<b>10d. Cell No.</b>
		<b>10e. Fax No.</b>	<b>10f. E-Mail Address</b>
<b>11. Election Details:</b> If the NLRB conducts an election in this matter, state your position with respect to any such election:		<b>11a. Election Type:</b> <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	
<b>11b. Election Date(s):</b> Earliest practicable	<b>11c. Election Time(s):</b> TBD	<b>11d. Election Location(s):</b> via USPS	
<b>12a. Full Name of Petitioner (including local name and number):</b> UA Plumbers and Steamfitters Local Union 60		<b>12b. Address (street and number, city, State and ZIP code):</b> 3515 N. I-10 Service Rd. Metairie, Louisiana 70002	
<b>12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state):</b> United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada			
<b>12d. Tel. No.</b> (504) 885-3054	<b>12e. Cell No.</b>	<b>12f. Fax No.</b>	<b>12g. E-Mail Address</b> ralbin@uanet.org
<b>13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.</b>			
<b>13a. Name and Title:</b> Kathleen Bichner, Attorney		<b>13b. Address (street and number, city, State and ZIP code):</b> O'Donoghue & O'Donoghue, LLP, 325 Chestnut Street, Suite 600, Philadelphia, PA 19106	
<b>13c. Tel. No.</b> 267-737-9692	<b>13d. Cell No.</b> 267-255-5363	<b>13e. Fax No.</b>	<b>13f. E-Mail Address</b> kbichner@odonoghuelaw.com
<b>I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.</b>			
<b>Name (Print)</b> Kathleen Bichner	<b>Signature</b> 	<b>Title</b> Attorney	<b>Date</b> 7/27/21

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**  
**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

Bd. Exh. 1(a)

## ATTACHMENT

### 5b. Description of Unit Involved:

**Included:** All full-time and regular part-time operators/stationary engineers and maintenance employees employed by the Employer out of its location at 1661 Gravier St. New Orleans, LA 70112.

**Excluded:** All other employees, managers, office clericals, guards and supervisors as defined in the Act.

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlrb.gov](http://www.nlrb.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

**REVIEW THE FOLLOWING IMPORTANT INFORMATION  
BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlrb.gov](http://www.nlrb.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

**Note:** *Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.*

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

**DO NOT WRITE IN THIS SPACE**

Case No.

15-RC-280545

Date Filed

July 28, 2021

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative	9b. Signature of authorized representative		9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:	9g. Fax No.	9h. Cell No.	

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 15**

<b>Name of Employer:</b> CenTrio Energy South LLC
<b>Case No.</b> 15-RC-280545
<b>Correct Name of Petition:</b> UA Plumbers and Steamfitters Local Union 60

**STIPULATION**

We stipulate that:

1. We have been informed of the procedures at formal hearings before the National Labor Relations Board by service of the Statement of Standard Procedures with the Notice of Hearing. The Hearing Officer has offered to us additional copies of the Statement of Standard Procedures.
2. To the extent the formal documents in this proceeding do not correctly reflect the names of the parties, the formal documents are amended to correctly reflect the names as set forth above.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act ("Act").
4. There is no collective-bargaining agreement covering any of the employees in the unit sought in the petition herein and there is no contract bar to this proceeding.
5. The Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and is subject to the jurisdiction of the Board. The commerce facts are as follows:

Centrio Energy South LLC, herein the Employer, a Delaware corporation with an office and place of business located at 1661 Gravier Street, New Orleans, LA 70112, provides chilled water and steam services to businesses in New Orleans. Annually, in the course and conduct of its business operations, the Employer provides services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns.

6. The following unit is an appropriate unit within the meaning of Section 9(b) of the Act:

**Included :** All full-time and regular part-time operators/stationary engineers and maintenance employees employed by the Employer in its New Orleans District Energy System based at 1661 Gravier St. New Orleans, LA 70112.

EXHIBIT NO. B-2 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME CenTrio Energy South

NO OF PAGES 3 DATE: 8-17-21 REPORTER: Gary Baldwin

**Excluded:** All other employees, managers, office clericals, guards and supervisors as defined in the Act.

Upon receipt of this Stipulation by the Hearing Officer, it may be admitted, without objection, as a Board exhibit in this proceeding.

\_\_\_\_\_  
For the Employer:

\_\_\_\_\_  
For the Petitioner:

RECEIVED:

\_\_\_\_\_  
Andrew Miragliotta, Hearing Officer

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

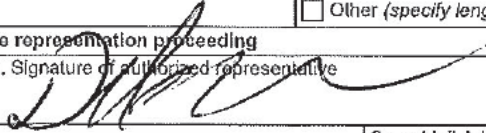
15-RC-280545

Date Filed

July 28, 2021

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position: CenTrio Energy South LLC		1c. Business Phone: 504-569-2100	1e. Fax No.: 504-569-2110
1b. Address (Street and number, city, state, and ZIP code): 1661 Gravier Street, New Orleans, LA 70112		1d. Cell No.:	1f. e-Mail Address:
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.) Unit description should be revised.			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)  The description should be clarified. In the "Included" portion of the unit description, the words "out of its location" should be changed to "in its New Orleans District Energy System, based at"			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. Added: Excluded:			
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.  The election should be conducted by manual ballot rather than by mail, in accordance with the Board's long-standing preference for manual elections. The employer will comply with the GC Memo 20-10 protocols.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015">http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015</a> (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit, (Attachment D).			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s): See attached.	8c. Time(s): See attached.	8d. Location(s): 2nd floor, 1661 Gravier St.	
8e. Eligibility Period (e.g. special eligibility formula):	8f. Last Payroll Period Ending Date: August 8, 2021	8g. Length of payroll period <input type="checkbox"/> Weekly <input checked="" type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative Deborah S.K. Jagoda		9b. Signature of authorized representative 	9c. Date 8/9/2021
9d. Address (Street and number, city, state, and ZIP code) Winston & Strawn LLP 200 Park Avenue New York, NY 10166			9e. e-Mail Address djagoda@winston.com
9f. Business Phone No.: 212-294-2617		9g. Fax No.: 212-294-4700	9h. Cell No.:

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(f) of the Board's Rules and Regulations and may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Board  
Exhibit 3

EXHIBIT NO. B-3 RECEIVED X REJECTED         

CASE NO 15-RC-280545 CASE NAME Centrio Energy South

NO OF PAGES 6 DATE: 8-17-21 REPORTER: Gary Baldwin

## ATTACHMENTS TO STATEMENT OF POSITION

Employer Name: CenTrio Energy South LLC Case No. 15-RC-280545

### **Question 8(b) and (c): Date and Time for Election**

The following dates and times will enable all employees in the petitioned-for unit to vote in the election at the beginning or end of their scheduled work shift:

September 9, 2021 6:30 a.m. to 7:30 a.m. **AND** September 10, 2021 6:30 p.m. to 7:30 p.m.

Alternative dates and times that would also encompass the scheduled shifts for all employees in the petitioned for unit are:

September 2, 2021 6:30 a.m. to 7:30 a.m. **AND** September 3, 2021 6:30 p.m. to 7:30 p.m.

or

September 23, 2021 6:30 a.m. to 7:30 a.m. **AND** September 24, 2021 6:30 p.m. to 7:30 p.m.

**Employer Name:** CenTrio Energy South LLC **Case No.** 15-RC-280545

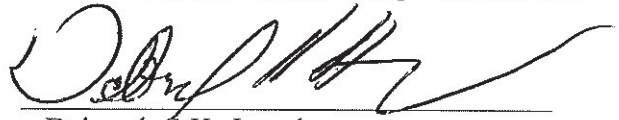
**Question 7: Employees in Petitioned for Unit, payroll period ended 7/24/2021**

Employee Name	Work Location	Shift	Job Classification
1. Agee, Juan	CW & TSP*	2	Operator I
2. Anderson, David	CW & TSP	4	Operator I
3. Brown, Dontee	CW & TSP	1	Operator II
4. Dequair, Gregory	CW & TSP	weekdays	Lead Operator
5. Dequair, Gregory, Jr.	CW & TSP	1	Operator III
6. Fortune, Brian	CW & TSP	3	Operator I
7. Hines, Billie	CW & TSP	3	Operator II
8. Hymel, Jonathan	CW & TSP	4	Apprentice Operator
9. Mackey, Mitchell	CW & TSP	2	Operator III
10. Pichoff, Greg	CW & TSP	4	Operator III
11. Porche, Drew Christopher	CW & TSP	3	Operator III
12. Schinsing, Leo	CW & TSP	1	Operator II
13. Tatum, Nicholas	CW & TSP	2	Operator I

\* All employees in the petitioned for unit work both in the Employer's New Orleans District Energy System's chilled water plant, 1661 Gravier Street, and in its thermal system plant, 2104 Gravier Street.

**STATEMENT OF SERVICE**

I hereby certify that on August 11, 2021, I served the CenTrio Energy South LLC Statement of Position, the CenTrio Energy South LLC Attachments to Statement of Position including Initial Employee List, and the Employer's Commerce Questionnaire, upon the Petitioner by emailing the foregoing to the Petitioner's Counsel, Kathleen Bichner, [kbichner@odonoghuelaw.com](mailto:kbichner@odonoghuelaw.com)

A handwritten signature in black ink, appearing to read 'Deborah S.K. Jagoda', written over a horizontal line.

Deborah S.K. Jagoda  
Winston & Strawn LLP  
200 Park Avenue  
New York, NY 10166  
[djagoda@winston.com](mailto:djagoda@winston.com)

Attorneys for Employer

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME CENTRIO	CASE NUMBER 15-RC-280545
----------------------	-----------------------------

## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

CENTRIO ENERGY SOUTH LLC

## 2. TYPE OF ENTITY

☐ CORPORATION ☒ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION DELAWARE	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES See Question No. 4
---	--

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

MEMBER MANAGED LLC: CenTrio Energy USA Holdings LLC 1661 Gravier St., New Orleans, LA 70112

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

N/A

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

DISTRICT ENERGY SYSTEM PROVIDING CHILLED WATER AND STEAM TO BUSINESSES IN NEW ORLEANS, LOUISIANA

## 7A. PRINCIPAL LOCATION:

NEW ORLEANS, LA

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL: 51 TOTAL EMPLOYEES

B. AT THE ADDRESS INVOLVED IN THIS MATTER: 25 Total, 13 Hourly and 12 Salary

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☒ 12 MONTHS or ☐ FISCAL YEAR (FY DATES \_\_\_\_\_)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		X
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		X
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____	X	
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input checked="" type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		X


## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☒ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME GORDON MORROW	TITLE SR OPERATIONS DR.	E-MAIL ADDRESS gordon.morrow@centrioenergy.com	TEL. NUMBER 504-952-8772
-----------------------	----------------------------	---	-----------------------------

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print) Gordon Morrow, Sr. Operations Director	SIGNATURE 	E-MAIL ADDRESS gordon.morrow@centrioenergy.com	DATE 8/2/2021
--	--	---	------------------

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**RESPONSIVE STATEMENT OF POSITION - RC, RD or RM PETITION**

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an **RC, RD or RM** petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

**The Employer**

CenTrio Energy South, LLC

**An Intervenor/Union**

N/A

**1a. Full Name of Party Filing Responsive Statement of Position**

UA Plumbers and Steamfitters Local Union 60

**1c. Business Phone**

(504) 885-3054

**1d. Cell No.**

N/A

**1e. Fax No.**

N/A

**1f. E-Mail Address**

N/A

**1b. Address (Street and Number, City, State and ZIP Code)**

3515 N. I-10 Service Rd, W, Metairie, LA 70002

**2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:****a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

See attachment.

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

See attachment.


**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

See attachment.

**Board  
Exhibit 4****Full Name and Title of Authorized Representative**

Kathleen Bichner, Attorney

**Signature of Authorized Representative****Date**

8/11/2021

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

EXHIBIT NO. B-4 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME CenTrio Energy South

NO OF PAGES 8 DATE: 8-17-21 REPORTER: Gary Baldwin

## ATTACHMENT

### Response to Question 2(d):

Gregory Dequair (Lead Operator) is excluded from the petitioned-for unit because he is a Supervisor as that term is defined in Section 2(11) of the National Labor Relations Act.

### Response to Question 2(f):

The Employer is precluded from “raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue” because it failed to raise the same in a timely served Statement of Position. 29 C.F.R. § 102.66 (d). Per the Board’s rules, the Employer was required to file and serve its Statement of Position on the Petitioner by noon (Central time) on August 9, 2021. *See* 29 C.F.R. § 102.63(b) (“the employer shall file with the Regional *Director* and serve on the parties named in the petition its Statement of Position such that it is received by the Regional Director and the parties named in the petition by the date and time specified in the Notice of Hearing, which shall be at noon 8 business days following the issuance and service of the Notice of Hearing”) (emphasis added). *See also* Order Scheduling Hearing, Case No. 15-RC-280545 (July 28, 2021) (“CenTrio must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed in the petition such that it is received by them by no later than noon Central time on Monday, August 9, 2021) (emphasis added).

There is no dispute the Employer served a copy of its Statement of Position and attachments on the Petitioner on Wednesday, August 11, 2021 at 1:30 p.m. Central time. *See* Exhibit 1. Further, the Employer did not file a Certificate of Service. As a result of this untimely service, the Employer is precluded from making any presentation at the hearing. 29 C.F.R. § 102.66(d) does not limit its preclusive effect except for the following limited bases: (1) “except that no party shall be precluded from contesting or presenting evidence relevant to the Board’s statutory jurisdiction to process the petition”; (2) “[n]or shall any party be precluded, on the grounds that a voter’s eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election.” Thus, the Employer is precluded from “raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue” including the manner of the election and the individual eligibility of any voters. *Id.* (emphasis added). And with regard to the manner of election specifically, it is worth noting that Hearing Officers should not permit litigation of such issue in any event. 29 C.F.R. § 102.66(g)(1).

The Board has held that a Regional Director errs when he or she fails to strictly apply the preclusion rules quoted above when a party fails to timely serve other parties with a statement of position in a representation proceeding. In *Brunswick Bowling Products, LLC*, 364 NLRB No. 96 (2016), a union, in response to a decertification petition, served its statement of position on the petitioner a mere three hours and twenty minutes after the deadline for doing so. Nevertheless, the Regional Director allowed the position statement into the record at hearing on the grounds that the delay was not significant and no party was prejudiced by the late service. The Regional Director also allowed the union to raise and argue the issue of a contract bar at the pre-election hearing. The

Board reversed the decision of the Regional Director in this regard, concluding that the purpose of the statement of position requirements would be defeated if the preclusion rules were not strictly enforced and that a lack of prejudice to the other parties was irrelevant. *Id.* slip op. at 2. *See also Williams-Sonoma Direct, Inc.*, 365 NLRB No. 13 (2017) (“[U]nder Sec. 102.66(d) of the Board’s Rules, the Regional Director was correct to preclude the Employer from litigating the appropriateness of the petitioned-for unit (based on the Employer’s failure to timely serve its statement of position on the Petitioner)”).

### **Response to Question 2(g):**

The Petitioner maintains that a mail ballot election is warranted under the guidelines described by the Board in *Aspirus Keweenaw*, 370 NLRB No. 45 (2020) and the current status of the COVID-19 pandemic. The Petitioner also maintains (as described more fully in the previous section of this Attachment) that the Employer should be precluded from raising any argument or evidence to the contrary at a pre-election hearing in this case due to its failure to timely serve its statement of position. Furthermore, litigation should not be permitted on this issue in any event pursuant to 29 C.F.R. § 102.66(g)(1).

In *Aspirus*, the Board identified six factors for regional directors to consider in determining whether a mail-ballot election is appropriate due to the extraordinary circumstances presented by the COVID-19 pandemic. Those six circumstances are: (1) the Agency office tasked with conducting the election is operating under “mandatory telework” status; (2) either the 14-day trend in number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher; (3) the proposed manual election site cannot reasonably be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size; (4) the employer fails or refuses to commit to abide by GC Memo 20-10, “Suggested Manual Election Protocols”; (5) there is a current COVID-19 outbreak at the facility or the employer refuses to disclose and certify its current status; or (6) other similarly compelling circumstances.

By way of example, evidence on the CDC website (<https://covid.cdc.gov/covid-data-tracker/#county-view>) for Orleans Parish where the election would be held shows both an increasing trend over the last 14 days, as well as a 13.21% Positivity Rate. This is greater than the threshold set forth in *Aspirus*. The Employer cannot show (even if permitted to do so) that a manual election could be held that satisfies the requirements of *Aspirus*.

In addition, a mail ballot election is doubly appropriate here where the Employer admits that an in-person election cannot be completed here within a one-day period given the fact that the employees shift times are so staggered. Thus, a mail ballot election should be scheduled by the Regional Director for the earliest practicable date.

# Exhibit 1

**From:** [Jagoda, Deborah](#)  
**To:** [Kathleen Bichner](#)  
**Subject:** CenTrio, 15-RC-280545, Statement of Position  
**Date:** Wednesday, August 11, 2021 2:29:45 PM  
**Attachments:** [CenTrio Energy South LLC Statement of Position.pdf](#)  
[CenTrio Energy South LLC Attachments to Statement of Position including Initial Employee List.docx](#)

---

Kathleen,

Attached is a copy of the Employer's Statement of Position, and the attachments thereto.

Deborah

**Deborah S.K. Jagoda**

Winston & Strawn LLP  
200 Park Avenue  
New York, NY 10166-4193

D: +1 212-294-2617

F: +1 212-294-4700

[Email | winston.com](#)

*Pronouns: She, Her, Hers*

**WINSTON  
& STRAWN**  
LLP

---

**From:** Jagoda, Deborah  
**Sent:** Monday, August 9, 2021 5:27 PM  
**To:** 'Kathleen Bichner' <[kbichner@odonoghuelaw.com](mailto:kbichner@odonoghuelaw.com)>  
**Subject:** RE: CenTrio, 15-RC-280545

Kathleen,

Yes, you can serve a subpoena duces tecum in this case addressed to CenTrio's Custodian of Records by emailing it to me. I assume you'll extend the same courtesy on behalf of the Petitioner if we need it.

Regards,

**Deborah S.K. Jagoda**

Winston & Strawn LLP  
200 Park Avenue  
New York, NY 10166-4193

D: +1 212-294-2617

F: +1 212-294-4700

[Email | winston.com](#)

*Pronouns: She, Her, Hers*



---

**From:** Kathleen Bichner <[kbichner@odonoghuelaw.com](mailto:kbichner@odonoghuelaw.com)>

**Sent:** Monday, August 9, 2021 11:33 AM

**To:** Jagoda, Deborah <[DJagoda@winston.com](mailto:DJagoda@winston.com)>

**Subject:** CenTrio, 15-RC-280545

Deborah:

Hope you are well. This firm represents the Petitioner in the above-captioned case. The Petitioner will serve a subpoena duces tecum upon the Custodian of Records for CenTrio in advance of the hearing currently scheduled for August 17, 2021. Will you agree to accept service of the subpoena on behalf of your client by electronic mail only? If so, please let me know. Thank you.

Sincerely,  
Kathleen Bichner

---

The contents of this message may be privileged and confidential. If this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author. Any tax advice contained in this email was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under applicable tax laws and regulations.

**CERTIFICATE OF SERVICE**

I hereby certify that before noon on Thursday August 12, 2021, I served the Petitioner's Responsive Statement of Position and attachments on the Employer's representative, Deborah Jagoda, Esq. (DJagoda@winston.com), via electronic mail.

/s/ Kathleen Bichner  
Kathleen Bichner  
O'Donoghue & O'Donoghue LLP  
325 Chestnut Street, Suite 600  
Philadelphia, PA 19106  
[Kbichner@odonoghuelaw.com](mailto:Kbichner@odonoghuelaw.com)  
P: 267-737-9692

*Attorney for the Petitioner*



# COVID Data Tracker

## United States at a Glance

[Collapse](#)

### United States At a Glance

**Deaths Total** 619,564  
Last 30 Days

**Cases Total** 36,720,973  
Last 30 Days

**72.1% of Adults with At Least  
One Vaccination**

**Community  
Transmission** High

[Data Tracker Home](#)
[COVID Data Tracker Weekly  
Review](#)
[Your Community](#)
[County View](#)
[Forecasting](#)
[Vaccinations in the US](#)
[Community Profile Report](#)
[State Profile Report](#)
[Pandemic Vulnerability Index](#)
[Health Equity Data](#)
[Vaccinations](#)
[Cases, Deaths, and Testing](#)

## COVID-19 Integrated County View

Maps, charts, and data provided by CDC, updates daily by 8 pm ET<sup>†</sup>

Select state and county to populate  
county-specific data:

State:

Alabama

County or metro area:

Acadia Parish

This site provides an integrated, county view of key data for monitoring the COVID-19 pandemic in the United States. It allows for the exploration of standardized data across the country.\* The footnotes describe each data source and the methods used for calculating the metrics. For the most complete and up-to-date data for any particular county or state,

**Board Exhibit  
5 (a)**

EXHIBIT NO. B-5 (a-b) RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME CenTrio Energy South

NO OF PAGES 10 DATE: 8-17-21 REPORTER: Gary Baldwin

Demographic Trends ☐Health Care Settings ☐Genomic Surveillance ☐Seroprevalence ☐People at Increased Risk ☐Multisystem Inflammatory  
Syndrome in Children (MIS-C)Prevention Measures and  
Social Impact ☐

Additional COVID-related Data

Communications Resources

COVID-19 Home

☐ Get Email UpdatesSign up to receive the COVID  
Data Tracker Weekly Review.

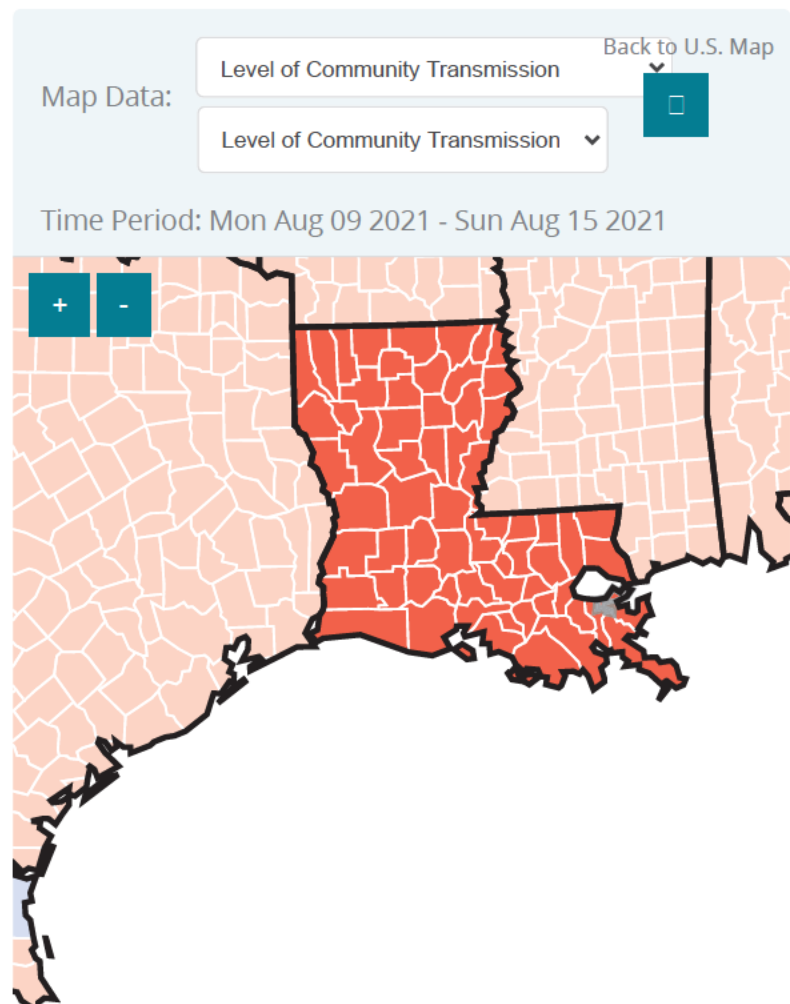
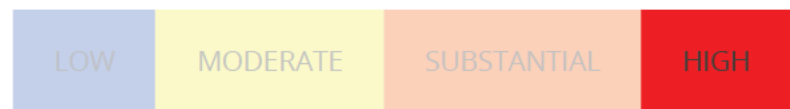
Email Address:

[What's this?](#)

visit the relevant health department website. Additional data and features are forthcoming.

\*County level data are not available for territories. Territory level data is available under the [Cases, Deaths, and Testing tab](#). Data presented here for District of Columbia may differ from those presented on the [Cases, Deaths, and Testing tab](#). For CDC's most up to date data for District of Columbia, select District of Columbia in the dropdown on this tab or see the map below

### Level of Community Transmission in Orleans Parish, Louisiana



High

Substantial

Moderate

Low

No Data

Current 7-days is Mon Aug 09 2021 - Sun Aug 15 2021 for case rate and Fri Aug 06 2021 - Thu Aug 12 2021 for percent positivity. The percent change in counties at each level of transmission is the absolute change compared to the previous 7-day period.

View Time-lapse

**Vaccinations in Orleans Parish, Louisiana**  
[How Do I Find a COVID-19 Vaccine?](#)

**Percent of Louisiana's fully vaccinated recipients with valid county of residence:**  
96.2%

*States with lower percentages for valid county of residence should be interpreted with caution.*

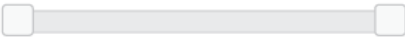
People Vaccinated	At Least One Dose	Fully Vaccinated
Total	239,384	208,445
% of Total Population	61.4%	53.4%
Population ≥ 12 Years of Age	239,339	208,428
% of Population ≥ 12 Years of Age	70.9%	61.7%
Population ≥ 18 Years of Age	226,303	200,265

% of Population ≥ 18 Years of Age	72.3%	64%
Population ≥ 65 Years of Age	51,247	48,941
% of Population ≥ 65 Years of Age	84.4%	80.6%
<a href="#">See more information on what these data mean.</a>		

CDC | Data as of: August 16, 2021 6:00am ET. Posted: Monday, August 16, 2021 4:59 PM ET

CDC has capped the percent of population coverage metrics at 99.9%. These metrics could be greater than 99.9% for multiple reasons, including census denominator data not including all individuals that currently reside in the county (e.g., part time residents) or potential data reporting errors. Estimates may change as new data are made available.

7 Day Moving Averages  
Orleans Parish, Louisiana



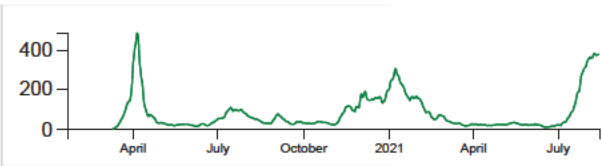
7-Day Totals, Rates, Percentages, and % Change in Last 7 Days

Cases  
2394  
(613.62 per 100k)

5.05 % change

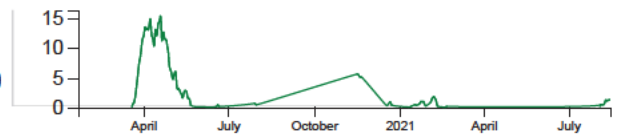
Data through

Deaths



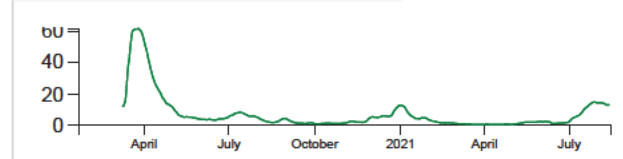
## CDC COVID Data Tracker

17  
(4.36 per 100k)  
41.67 %  
change

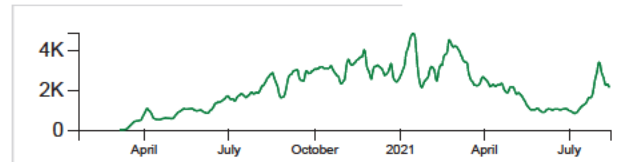


Data through

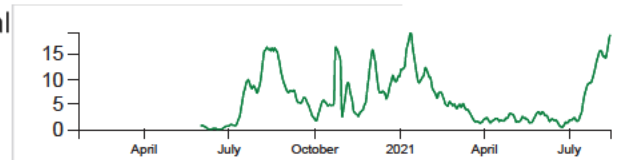
Percent  
Positivity  
11.02  
-1.93 %  
change

Data through  
Fri Aug 13

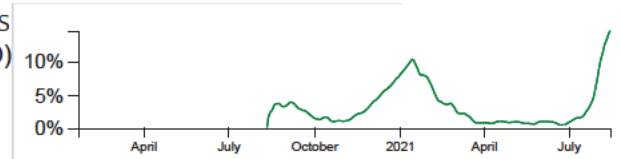
Testing  
Volume  
14271  
(3657.88 per  
100k)  
-19.58 %  
change



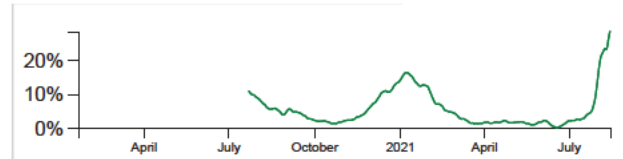
New Hospital  
Admissions  
(COVID)  
116  
(10.81 per 100  
beds)  
24.73 %



Percent Beds  
Used (COVID)  
13.23  
2.82 %  
change

Data through  
Sat Aug 14

Percent ICU  
Beds Used  
(COVID)  
25.29  
4.83 %  
change

Data through  
Sat Aug 14  
2021

## Community Characteristics for Orleans Parish, Louisiana

Characteristic	County Estimate	Statewide Estimate	US Total Estimate
Population:	390,144	4,648,794	331,996,199

<b>Population density (people per sq. mile):</b>	2,302.64	107.6	94
<b>Household size:</b>	2.44	2.61	2.52
<b>Percent uninsured:</b>	10.7	8.9	9.2
<b>Percent living in poverty:</b>	24.6	19.4	10.5
<b>Percent population 65yrs and over:</b>	15.56	15.94	16.3
<b>CDC Social Vulnerability Index (SVI):</b>	0.7449	N/A	N/A
<b>COVID-19 Community Vulnerability Index (CCVI):</b>	0.52	N/A	N/A
<b>Metropolitan Classification:</b>	Metro	N/A	N/A
<b>NCHS Urban/Rural Classification:</b>	Large central metro	N/A	N/A
<b>Rural-Urban Continuum Code Classification:</b>	Counties in metro areas of 1 million population or more	N/A	N/A

---

 County Level Vaccination Data for Louisiana
 ☐


---

 County Level Latest Data for Louisiana
 ☐


---

 County Level Timeseries Data for Louisiana
 ☐


---

[View Historic Vaccination Data](#)



# How do levels of community transmission affect schools?

See guidance for COVID-19 prevention in K-12 schools

# How does this data compare to states?

Find case and death counts [by state](#)

[View and Download](#) COVID-19 Case Surveillance Public Use Data

## HAVE QUESTIONS?

- ☐ Visit CDC-INFO
- ☐ Call 800-232-4636
- ☐ Email CDC-INFO
- ☐ Open 24/7

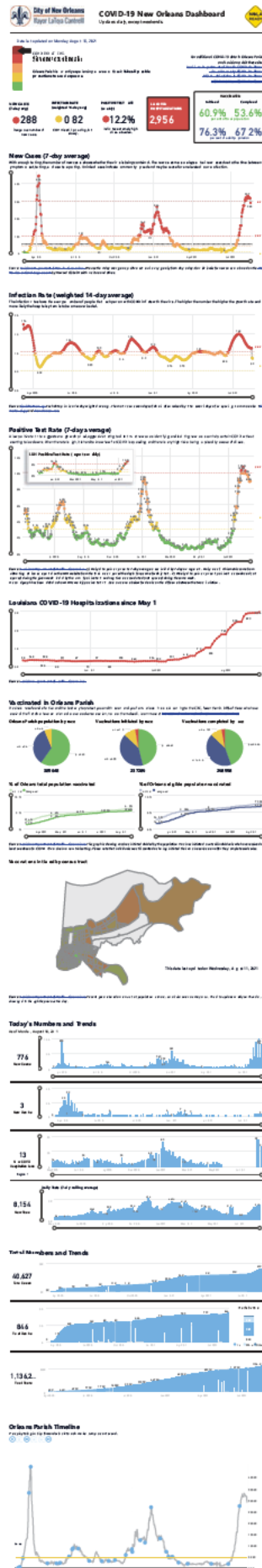
## CDC INFORMATION

- About CDC
- Jobs
- Funding
- Policies
- File Viewers & Players
- Privacy
- FOIA
- No Fear Act
- OIG
- Nondiscrimination
- Accessibility

## CONNECT WITH CDC

- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐

CDC Website Exit Disclaimer ☐



Board Exhibit  
5 (b)

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 15

In the Matter of:

CENTRIO ENERGY SOUTH LLC, Case No. 15-RC-280545

Employer,

and

UA PLUMBERS AND STEAMFITTERS  
LOCAL UNION 60,

Petitioner.

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PETITIONER EXHIBITS

Place: New Orleans, Louisiana (via Zoom Videoconference)

Dates: August 17, 2021

OFFICIAL REPORTERS  
eScribers, LLC  
E-Reporting and E-Transcription  
7227 North 16th Street, Suite 207  
Phoenix, AZ 85020  
(602) 263-0885



# EXHIBIT EXCLUDED

Leading Case Number: 15-RC-280545

Leading Case Name: CenTrio Energy South LLC

Exhibit Number: P-1

Description: Covid Data from CDC

**The above-referenced exhibit is not included herein for the following reason:**

1. Exhibit Withdrawn: XX

2. Exhibit Rejected:

3. Other (Explain):

Exhibit Retained By: Counsel



Court Reporter

\*Filtered to: Orleans

Louisiana Coronavirus (COVID-19) Information

New Cases  
13,239

New Deaths  
65

COVID Patients in Hospitals  
2,956

Total Cases\*  
40,627

Total Deaths\*  
846

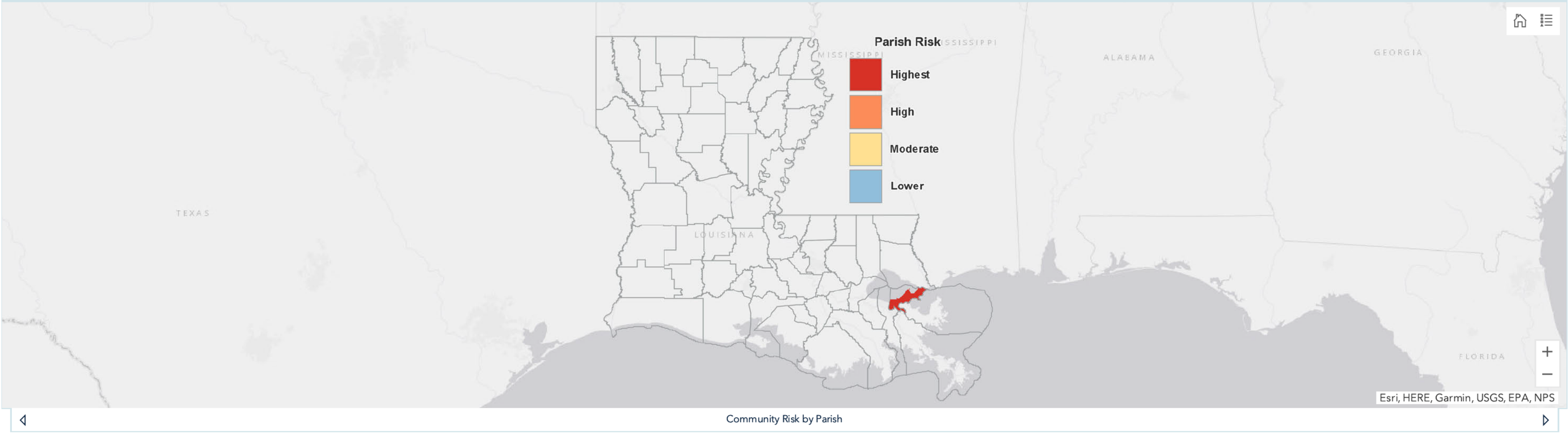
COVID Patients on Ventilators  
417

Those not fully vaccinated account for...

90%  
of cases from 7/29 to 8/4

83%  
of deaths from 7/29 to 8/4

90%  
of current COVID hospitalizations



Click the < > arrows to navigate tabs containing other information and downloadable data  
This dashboard is updated on weekdays by noon.

EXHIBIT NO. P-2 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME Centrio Energy South

NO OF PAGES 2 DATE: 8-17-21 REPORTER: Gary Baldwin



# COVID-19 (/INCIDENT/CORONAVIRUS) IN NEW ORLEANS

Home (/home/) ▶ Incidents (/incident/) ▶ Coronavirus (/incident/coronavirus/) ▶ COVID Restrictions



## CORONAVIRUS

Translate: Español (/incident/coronavirus/safe-reopening/?lang=es-mx) Tiếng Việt (/incident/coronavirus/safe-reopening/?lang=vi-vn)

## Current Guidelines

Protecting public health and safety will continue to drive the City of New Orleans’ response to COVID-19. Procedures and decisions will be informed by State and Federal guidance, an internal City task force, external advisory groups, and robust data analysis. Specific public health milestones must be met before the City will begin to ease restrictions and progress from one phase to another. If these criteria are not met or if there is a spike in cases or deaths, it may be necessary to move back to stricter measures. View public health dashboard (<http://ready.nola.gov/data>).

## Modified Phase Three IN EFFECT AUGUST 16, 2021

City of New Orleans Public Health Advisory (/NOLAReady/media/Documents/Coronavirus/PUBLIC-HEALTH-ADVISORY-08122021.pdf)

City of New Orleans Guidelines (/NOLAReady/media/Documents/Coronavirus/NOHD-Guidelines-for-reopening-August-13-Vaccine-Requirement-final.pdf)

Non-Congregate Setting Public Health Advisory (/NOLAReady/media/Assets/COVID19/Public-Health-Advisory-NCS-6-9-21.pdf)

The City of New Orleans continues to meet all public health milestones and has fully vaccinated over 74% of all adults with the COVID-19 vaccine. However, only slightly more than 52% of all New Orleanians have been fully vaccinated. Furthermore, there are several census tracts in the City with vaccination rates below 50%. Therefore, the New Orleans Health Department is reimposing restrictions on certain activities pursuant to the Mayor’s emergency powers provided by La. R.S. 29:727(F) and the “Mayoral Proclamation to Further Promulgate Emergency Orders During the State of Emergency Due to COVID-19” filed on May 15, 2020. These restrictions will be effective as of August 16, 2021 at 6:00 A.M.



### Masks required

#### INDOOR MASK MANDATE IN EFFECT

- Everyone, regardless of vaccination status, must wear a mask indoors when with people who are not in their immediate household.
- Masks also required at outdoor gatherings of more than 500 people if total attendance is more than 50% of the outdoor venue’s capacity.



### Vaccines required

Anyone 12 years of age and older must provide proof of at least one dose of an approved COVID vaccine or negative PCR test within 72 hours, including employees, to access:

#### INDOOR DINING

- Restaurants
- Bars
- Breweries, microbreweries, distilleries & micro-distilleries

#### INDOOR FITNESS

- Gyms
- Indoor group fitness centers or individual fitness classes

#### INDOOR ENTERTAINMENT & PERFORMANCE SPACES

- Indoor sports complexes, stadiums & arenas
- Concert & music halls
- Event spaces such as hotel ballrooms, event venues & reception halls



### Gathering guidelines

#### INDOOR GATHERINGS

- Masks are required at all indoor gatherings.
- Proof of vaccination or negative PCR tests will be required at all indoor gatherings at establishments included in these requirements.

#### OUTDOOR GATHERINGS

- Masks *strongly recommended* for outdoor events of 500+ people if total event attendance is less than 50% of the outdoor venue’s capacity.
- Masks *required* for outdoor events of 500+ people if total attendance is more than 50% of the outdoor venue’s capacity.
- Proof of vaccination or a negative COVID PCR test result from last 72 hours *required* for outdoor events of 500+ people if total attendance is more than 50% of the outdoor venue’s capacity.

EXHIBIT NO. P-3 RECEIVED X REJECTED           

CASE NO 15-RC-280545 CASE NAME CenTrio Energy South

NO OF PAGES 5 DATE: 8-17-21 REPORTER: Gary Baldwin

- Pool halls, bowling alleys, indoor play centers, arcades, skating rinks, indoor playgrounds & arcades
- Adult live performance venues
- Casinos, racetracks & video poker establishments
- Indoor amusement facilities

**LARGE OUTDOOR EVENTS**

- Outdoor events of more than 500 people if total attendance is more than 50% of the outdoor venue's capacity.

[Back to top](#)

# Vaccination status

## ✓ How to prove your vaccination status

**LA WALLET APP**

[Learn more \(https://lawallet.com/\)](https://lawallet.com/)

**CDC CARD**

Original, digital photograph, or photocopy of CDC Vaccination Card (both sides)

**OTHER OFFICIAL RECORD**

An official vaccine record issued by another state, foreign nation, or the World Health Organization

**VACCINE TRIAL RECORD**

An official vaccine record issued through a vaccine clinical trial

## ✓ Keep your vaccine card safe

- Keep a photo of BOTH SIDES of your card on your smart phone and/or stored on another digital device.
- We do not suggest laminating your card, since you may need to receive booster shots in the future.
- Store your original card in a safe place. We suggest using a photo or a photocopy of the card to prove your status rather than carrying your original card.
- If you have multiple people in your household, store all cards together.
- Don't forget to bring the cards with you if we have to evacuate due to a storm.

## ✓ How to replace your vaccine card

- Contact the location where you were vaccinated and request a replacement card.
- If you are not able to contact your original provider, contact your state's health department (<https://www.cdc.gov/vaccines/programs/iis/contacts-locate-records.html#state>).
- In Louisiana, here's (<https://ldh.la.gov/index.cfm/page/3641>)how to request a replacement copy from the state.

## ✓ How to use the LA Wallet App

Note that this app is only for Louisiana license holders who received their immunizations in the state of Louisiana. If you received your vaccine in another state or have another state's driver's license, please show your CDC card or electronic proof from your state of origin.

1. Download and install the app (<https://lawallet.com/>) from the Apple Store or Google Play Store.
2. Create and activate your LA Wallet account using your email address.
3. Tap "Add License."
4. Fill in your license information or tap the camera icon to scan the barcode on the back of your license. Enter the audit number listed on the front of the license if prompted.
5. Open the COVID-19 or SMART Health Card tab.
6. Tap the "Retrieve SMART Health Card" button.
7. Your SMART Health Card should show your vaccination status.

If you are experiencing issues with LA Wallet, please reference their support materials (<https://lawallet.com/support/>). If your issue remains unresolved, you can let us know in the below form:

Fields marked with ★ are required.

**Please describe the issue you are encountering when trying to use the LA Wallet App ★**

Your name

Email\*

Phone

()-

I'm not a robot

reCAPTCHA

Privacy - Terms

Submit

Back to top

## Additional resources, downloads, and links

### MASKS REQUIRED POSTERS

English (/NOLAReady/media/Documents/Coronavirus/Masks-Required-English.pdf)

Spanish (/NOLAReady/media/Documents/Coronavirus/Wear-a-Mask-Poster-SPAN-FINAL.pdf)

Vietnamese (/NOLAReady/media/Documents/Coronavirus/Wear-a-Mask-Poster-VIT-FINAL.pdf)

### VACCINES REQUIRED POSTERS

English (/NOLAReady/media/Documents/Coronavirus/Vaccine-Required-Poster-(2).pdf)

Spanish (/NOLAReady/media/Documents/Coronavirus/Vaccine-Required-Poster-Spanish.pdf)

Vietnamese (/NOLAReady/media/Documents/Coronavirus/Vaccine-Required-Poster-Vietnamese-(5).pdf)

### GUIDE FOR AFFECTED BUSINESSES

English (/NOLAReady/media/Documents/Coronavirus/Business-Handout-VaccineNegative-Test-Requirement-(2).pdf)

### ADDITIONAL RESOURCES

- City of New Orleans *Protecting the Safety and Health of Workers and Patrons* training (<https://ready.nola.gov/NOLAReady/media/Documents/Coronavirus/CNO-COVID-19-Reopening-for-Business-Certificate-Final.pdf>)
- NOLA Ready tips to prevent the spread of COVID-19 (<https://ready.nola.gov/incident/coronavirus/prevent-spread/>)
- Resources from the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>)
- HOSP Food Service Training Program* by the New Orleans Culinary and Hospitality Institute (<https://www.nochi.org/hosp>)
- Options to expand outdoor seating (<https://www.outdoordiningnola.com/>)

### OCHSNER'S SAFETY SIGNS FOR BUSINESSES

- Restroom Social Distance (<https://ochsner.imagerelay.com/share/d0d4d6fb4488477d8188a16cf020cdf5>)
- Hand Washing Instructions (<https://ochsner.imagerelay.com/share/7ed84080cf944eeb52bc791260d4235>)
- Social Distancing Floor Sticker (<https://ochsner.imagerelay.com/share/f246599e5a7b4e9ca087002ba5fbe975>)
- Hand Washing Sign (<https://ochsner.imagerelay.com/share/af02e89062a64c2a896e722b9e8a83f0>)
- Hand Sanitizer Sticker (<https://ochsner.imagerelay.com/share/a2870c13593b46498ea55b3b80cd9765>)

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## Enforcement

The Department of Safety and Permits and the New Orleans Police Department will enforce requirements. Residents should call 3-1-1 or go to [nola311.org](http://nola311.org) (<http://nola311.org>) to make a complaint about a violation of these restrictions. Complaints about businesses can also be made. Anyone not following these requirements may be found in violation of Chapter 54 Section 501 ([https://library.municode.com/la/new\\_orleans/codes/code\\_of\\_ordinances?nodel=PTIICO\\_CH54CRCO\\_ARTVIIIOFGE\\_S54-501DEEMVIEMORPRGO](https://library.municode.com/la/new_orleans/codes/code_of_ordinances?nodel=PTIICO_CH54CRCO_ARTVIIIOFGE_S54-501DEEMVIEMORPRGO)) of the New Orleans Criminal Code, which may result in a misdemeanor citation and a fine up to \$500 or six months in jail.

[Report a non-compliant business \(https://nola311.org/service-request/\)](https://nola311.org/service-request/)

[Back to top](#)

# Previous guidelines

View and download a table of previous guidelines organized by business or facility type.

[View previous guidelines \(/incident/coronavirus/safe-reopening/phases/\)](/incident/coronavirus/safe-reopening/phases/)

[Back to top](#)



**Sign up for Emergency Alerts**  
(<https://www.smart911.com/smart911/ref/reg.action?pa=nola>)



**Learn about City-Assisted Evacuation**  
(</plan/hurricane/#cae>)



**Sign up for the Special Needs Registry**  
(<https://specialneeds.nola.gov/>)



**Get Traffic Info and Street Flooding Reports**  
(<http://streetwise.nola.gov>)



**Get Seasonal Preparedness Info**  
([https://public.govdelivery.com/accounts/LANOLA/subscriber/new?topic\\_id=LANOLA\\_261&pop=t](https://public.govdelivery.com/accounts/LANOLA/subscriber/new?topic_id=LANOLA_261&pop=t))

## ON SOCIAL MEDIA

- Twitter: [@nolaready](https://twitter.com/nolaready)  
(<https://twitter.com/nolaready>)  
Follow @nolaready
- Facebook: [NOLA Ready](https://www.facebook.com/NOHSEP/)  
(<https://www.facebook.com/NOHSEP/>)

## HELPFUL LINKS

[Live Traffic and Accidents map](http://gis.nola.gov/traffic/)  
(<http://gis.nola.gov/traffic/>)  
[RoadWork](http://roadwork.nola.gov/) (<http://roadwork.nola.gov/>)  
[Where Y'At?](http://whereyat.nola.gov/) ([http://whereyat.nola.gov](http://whereyat.nola.gov/))  
[NOPD News](http://nopdnews.com) (<http://nopdnews.com>)

## BROUGHT TO YOU BY

[. \(https://nola.gov\)](https://nola.gov)



[. \(https://nola.gov/homeland-security\)](https://nola.gov/homeland-security)

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5**

CENTRIO ENERGY SOUTH LLC

EMPLOYER

and

15-RC-280545

UA PLUMBERS AND STEAMFITTERS

LOCAL UNION 60 <sup>1</sup>

PETITIONER

**DECISION AND DIRECTION OF ELECTION**

CenTrio Energy South LLC (the Employer) provides chilled water and steam services to public utilities, transit systems, businesses, and other entities in New Orleans. The UA Plumbers and Steamfitters Local Union 60 (the Petitioner or Union), filed the instant petition with the National Labor Relations Board (Board) under Section 9(c) of the National Labor Relations Act (Act) seeking to represent the approximately 12 employees in the following unit which the parties stipulated was appropriate: All full-time and regular part-time operators/stationary engineers and maintenance employees employed by the Employer in its New Orleans District Energy System based at 1661 Gravier Street, New Orleans, Louisiana 70112 but excluding all

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<sup>1</sup> The parties stipulated to amend the formal documents to correctly reflect the names of the parties as identified herein.

other employees, managers, office clericals, guards and supervisors as defined in the Act.<sup>2</sup> The parties further stipulated that there is no collective-bargaining agreement covering any of the employees in the petitioned-for unit and there is no contract bar precluding the processing of the instant petition.

The sole issue in this proceeding is whether, in light of the continuing COVID-19 pandemic, the Region should conduct the election manually or by mail ballot.<sup>3</sup> Petitioner asserts the election should be conducted by mail ballot because of the high COVID-19 positivity rate, that the 14-day trend in the number of cases had been on the rise and employees had tested positive and/or had been exposed to persons with COVID-19 in the preceding 14 days. The Employer seeks a manual election contending that those who either had COVID-19 or had been quarantining due to exposure would be back at the workplace by the end of August and affirming it will follow all protocols such that an election can be conducted safely and noting that a manual election is in accordance with the Board's longstanding preference.

A hearing officer of the Board heard this case by videoconference on August 17, 2021,<sup>4</sup> during which the parties entered into several stipulations.<sup>5</sup> The parties were advised that the determination over the method of election would not be litigated.<sup>6</sup> Notwithstanding, the parties

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<sup>2</sup> The parties stipulated, and I find, that this proposed unit is an appropriate unit within the meaning of Section 9(b) of the Act.

<sup>3</sup> Throughout this decision, the terms "COVID-19," "COVID," pandemic and virus are used interchangeably.

<sup>4</sup> All dates are in 2021 unless otherwise noted.

<sup>6</sup> The determination over the method of election is within the discretion of the Regional Director, and therefore, it was not a subject of litigation at hearing. NLRB Casehandling Manual (Part Two), Representation Proceedings, Section 11128 and Section 11301.2 (Casehandling Manual).

were afforded an opportunity to present evidence regarding the appropriateness and feasibility of conducting a manual election during this pandemic. Based on the entire record and in consideration of the parties' arguments, relevant Board law and COVID-19 data, for the following reasons, I am directing a mail-ballot election.

**I. Facts:**

*The Employer's facility and Proposed Manual Election Arrangements:*

The Employer operates 24 hours a day, seven days a week, 365 days a year. The petitioned-for employees work at two locations, the chilled water plant (chiller plant) and the boiler plant. There are four shifts with three employees scheduled on each shift. One employee on a shift works at the chiller plant, one works at the boiler plant and the third employee is designated as the "rover" who attends to both plants as needed. Employees work rotating 12-hour shifts, from 7:00 a.m. to 7:00p.m., and from 7:00 p.m. to 7:00 a.m., over a four-week period. That is, one crew of employees works the day shift, is off work for a set number of days, and then works the night shift, is off again for set number of days, and then returns to working day shift while the other crew works the opposite schedule.

The Employer proposes the election be held on site at both plants -- on the second floor in the administrative area in the chiller plant and on the first floor in the boiler plant. The Employer maintains that at each proposed location there is sufficient room for tables for the Board agent, observers, voting booth and ballot box to be stationed more than 6 feet apart and points out that there is an entrance that is separate from the exit at each proposed site.

There is a 30 to 40 foot-hallway accessing the polling area at the chiller plant and there is also an area outside of the suggested polling location at the boiler plant where employees can wait to vote if needed.<sup>7</sup> The Employer suggests that the election be held on a Thursday morning from 6:30 a.m. to 7:30 a.m. and on a Friday evening from 6:30 p.m. to 7:30 p.m. such that two of the four shifts would be present during a polling period. It anticipates that the shift reporting to work either in the morning or evening would arrive at 6:30 and vote; and that they would then relieve those on duty who would vote once relieved by the oncoming shift. If necessary, the Employer would allow employees to be released to accommodate a staggered schedule so that very few employees would be voting at one time.

The Employer affirms that it will comply with all the protocols and certifications outlined in *GC Memorandum 20-10*, discussed in greater detail below. The Employer tracks employees who have tested positive for, or have been exposed to, COVID-19 via a daily questionnaire that employees complete through an app. According to the Employer, during the 14 days preceding the hearing<sup>8</sup> one employee in the petitioned-for unit had tested positive for COVID-19 (on August 16), was last at work on August 12, and was expected to return on August 26 provided he does not have any COVID symptoms within 24 hours prior to his expected return date. All individuals who were on this employee's shift and the relieving shift, or who may have been in close contact with this employee, have been quarantined<sup>9</sup> for

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<sup>7</sup> The record did not specify the size of the staging area for the boiler plant.

<sup>8</sup> All references to the preceding or prior or last 14 days indicate the 14-day period before the hearing unless otherwise noted.

<sup>9</sup> The record references self-isolating throughout and I understand this to be the same as quarantining.

10 days from the date of their last contact with the employee, and all were expected to return to work on August 23. Additionally, during the preceding 14 days, two employees, not in the petitioned-for unit, have tested positive for COVID-19. The Employer avers that neither of these employees was in close contact with employees in the petitioned-for unit and had not been in the facilities since August 5 and 10.

Contact tracing the Employer conducted as a result of the employee who tested positive disclosed that a temporary worker was experiencing COVID symptoms. He declined to be tested for COVID-19, was to self-isolate for 14 days and was expected back at work August 30. Two other employees,<sup>10</sup> who are not employed in the petitioned-for unit, reported possible contact with someone who tested positive for COVID in the preceding 14 days. These exposures occurred after the last time the employees were at the Employer's facilities and these employees had not been in close contact with anyone in the petitioned-for unit. One of those persons has tested negative for COVID and the other was awaiting results from a COVID test as of the hearing date. Within three to five days of individuals testing positive for COVID-19 the Employer utilizes an industrial hygiene company to clean and sterilize the facilities.

The parties stipulated that as of July 30 the Mayor of New Orleans issued a parish wide indoor mask mandate and also instituted a requirement that city employees and contractors be vaccinated. As of August 16, the City of New Orleans has been in "Modified

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<sup>10</sup> These persons were identified as individuals but the record as a whole indicates they are employees.

phase three” such that an indoor mask mandate in effect and proof of vaccine or negative test is required for some activities.

## **II. Position of the Parties:**

The Union seeks a mail-ballot election noting that the positivity rates in the city of New Orleans and Orleans parish is well above 5 percent, and the number of positive cases in Orleans parish had been increasing over the prior 14 days.<sup>11</sup> It also argues that an election by mail ballot is appropriate here contending that the number of COVID positive cases at the Employer’s facility and the number of employees having to quarantine suggest that there may be spread of cases which could negatively impact voter participation. The Union further asserts that even absent the pandemic, due to the employees’ varied schedules and because a manual election would involve two days under the Employer’s proposal, a mail-ballot election would be appropriate.

In contrast, the Employer maintains that a manual election can be conducted safely, particularly given that it proposes two, one-hour polling periods, which would result in very few employees likely to be voting at any one time and, moreover, because it will abide by all safety protocols, and the polling areas are sufficient in size to allow for the necessary distancing. It argues that a manual election is simpler and comports with the Board’s long-standing preference for manual elections and increases the chance for greater employee participation. It notes that there is only one employee who tested positive in the previous 14 days and that this person and those exposed to him were expected to return by the end of

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<sup>11</sup> The parties naturally relied on data available as of August 17, the date of the hearing. I have considered more recent data.

August, well before the election would be held. Thus, the COVID positive case and exposure thereto would not impact a manual election.

### **III. Board Law and Guidance**

The Board has held that the mechanics of an election, such as the date, time, and place, are left to the discretion of the Regional Director. *Ceva Logistics U.S., Inc.*, 357 NLRB 628 (2011); *Manchester Knitted Fashions, Inc.*, 108 NLRB 1366, 1366 (1954). In addition, the Board has found that Regional Directors have the discretion to determine whether an election will be conducted manually or by mail ballot. See *Nouveau Elevator Industries, Inc.*, 326 NLRB 470, 471 (1998); NLRB Casehandling Manual (Part Two), Representation Proceedings, Section 11228 and Section 11301.2 (the determination over the method of election is not an issue subject to litigation).

It is well established, however, that the Board has a strong preference for conducting manual elections. NLRB Casehandling Manual (Part Two), Representation Proceedings, Section 11301.2; *San Diego Gas & Electric*, 325 NLRB 1143 (1998). Yet, it also has a history of conducting elections by mail when necessary. As the Board noted in *London's Farm Dairy, Inc.*, 323 NLRB 1057 (1997), “[f]rom the earliest days of the Act, the Board has permitted eligible voters in appropriate circumstances to cast their ballots by mail.” The Board identified a few situations in which a Regional Director may reasonably determine to hold an election by mail: where voters are scattered geographically or in the sense that their work schedules vary significantly; in instances of a strike, lockout or picketing; or in other unspecified extraordinary circumstances. *San Diego Gas and Electric*, 325 NLRB at 1145. The pandemic and related risks associated with in-person gatherings has constituted an extraordinary situation prompting an increased use of mail-ballot elections.

In response to the evolving realities of the pandemic, on July 6, 2020, the Office of the General Counsel issued *Memorandum GC 20-10*, “Suggested Manual Election Protocols.” This memorandum contains ten specific protocols to be addressed in any Stipulated Election Agreement or Decision and Direction of Election in which a manual election is to be conducted:

A. Spacious polling area, sufficient to accommodate six-foot distancing, which should be marked on the floor with tape to insure separation for observers, Board Agent, and voters.

B. Separate entrance and exit for voters, with markings to depict safe traffic flow throughout polling area.

C. Separate tables spaced six feet apart so Board Agent, observers, ballot booth and ballot box are at least six feet apart.

D. The Employer will provide markings on the floor to remind/enforce social distancing.

E. The Employer will provide sufficient disposable pencils without erasers for each voter to mark their ballot.

F. The Employer will provide glue sticks or tape to seal challenged ballot envelopes.

G. The Employer will provide plexiglass barriers of sufficient size to protect the observers and Board Agent to separate observers and the Board Agent from voters and each other, pre-election conference and ballot count attendees, as well as masks, hand sanitizer, gloves and wipes for observers.

H. The Agency will provide to the Board Agent(s) running the election a face shield, mask, disposable clothes covering if requested, hand sanitizer, gloves and disinfecting wipes.

I. An inspection of the polling area will be conducted by video conference at least 24 hours prior to the election so that the Board Agent and parties can view the polling area.

J. In accordance with CDC guidance, all voters, observers, party representatives, and other participants should wear CDC-conforming masks in all phases of the election, including the pre-election conference, in the polling area or while observing the count. Signs will be posted in or immediately adjacent to the Notice of Election to notify voters, observers, party representatives and other participants of this requirement.

This memorandum also requires an employer's written certification that the polling area is consistently cleaned in conformity with CDC standards as well as a certification of how many individuals have been present in the facility within the preceding 14 days who have tested positive for COVID-19; who have been directed by a medical professional to proceed as if they have tested positive for COVID-19; who are awaiting results of a COVID-19 test; who are exhibiting symptoms of COVID-19; or who have had direct contact with anyone in the previous 14 days who has tested positive for COVID-19. Also required are written certifications from each party representative and observer participating in the pre-election conference, election and ballot count that within the preceding 14 days, they have not tested positive for COVID-19, are not awaiting the results of a test and have not had direct contact with anyone who has tested positive, is awaiting the results of a test or has been directed by a medical professional to proceed as if they have tested positive. *GC Memorandum 20-10* does not provide an enforcement mechanism for any of its suggestions other than canceling an election, delaying the resolution of the question concerning representation.

Thereafter, the Board, in *Aspirus Keweenaw*, 370 NLRB No. 45 (November 9, 2020), outlined situations to consider when assessing the risk associated with the pandemic and the propriety of a mail-ballot election. In so doing, the Board reaffirmed its longstanding policy

favoring manual elections, but identified six situations, the existence of any of which, would suggest the Regional Director should direct a mail-ballot election. Those are as follows:

1. The Agency office tasked with conducting the election is operating under “mandatory telework” status;
2. Either the 14-day trend in the number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher;
3. The proposed manual election site cannot be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size;
4. The employer fails or refuses to commit to abide by the General Counsel’s protocols for Manual Elections established in GC Memo 20-10;
5. There is a current COVID-19 outbreak at the facility or the employer refuses to disclose and certify its current status; and/or
6. Other similarly compelling circumstances.

The Board indicated that a Regional Director who exercises discretion to direct a mail-ballot election when one or more of these situations exists will not have abused his or her discretion. *Id.* slip op. at 8.

For *Aspirus* Situation 2, the Board instructed Regional Directors to “generally focus their consideration on recent statistics that reflect the severity of the outbreak in the specific locality where the election will be conducted” and held that “a mail-ballot election will normally be appropriate if either (a) the 14-day trend in the number of new confirmed Covid-19 cases in the county where the facility is located is increasing, *or* (b) the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher.” *Id.* slip op. at 5. With respect to the

latter, the Board noted that many locales do not report the 14-day testing positivity rate. Often, a 7-day average is more available from local or county health departments, and the Board has found such metrics to be sufficient. See, for example *Stericycle, Inc.*, 04-RC-260581 (Feb. 22, 2021) (unpublished) (denying review of mail-ballot election where 7-day testing positivity rate was 8.01% in county where employer’s facility was located).

Regarding Situation 5, the Board has clarified that Regional Directors “should determine whether the Covid-19 cases at the facility would reasonably be expected to affect the conduct of a manual election. Relevant considerations in this regard include whether (1) the number or physical location of such Covid-19 cases, or the likelihood that those cases will result in unit employees being exposed to Covid-19, indicates that a manual election would pose a threat to health or safety; or (2) current Covid-19 cases among unit employees would result in their disenfranchisement by a manual election.” *Rush University Medical Center*, 370 NLRB No. 115, slip op. at 2 (2021).

#### **IV. Analysis**

With respect to factors 1, 3 and 4, the Regional office responsible for conducting this election is not in a mandatory telework status, the Employer’s proposed election sites do not appear to violate any mandatory state or local health orders related to maximum gathering size,<sup>12</sup> and the Employer has committed to abide by the protocols set forth in *GC Memorandum 20-10* and appears able to comply. Turning to Situation 2, as of this writing, the number of new COVID

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<sup>12</sup> Under the current guidelines in effect in New Orleans masks must be recommended to be worn indoors and the Employer has complied and will comply with this requirement. The gathering mandate requiring proof of vaccination or negative covid test appears to apply to indoor dining, fitness, entertainment and performance establishments, and therefore, would not be implicated here.

cases in Orleans parish over the last 14 days is as follows:<sup>13</sup>

-1 Labor Day	-2 Sunday	-3 Saturday	-4	-5	-6	-7	-8	-9 Sunday	-10 Saturday	-11	-12	-13	-14
0	0	0	65	26	585	0	0	0	0	221	283	278	196

Currently, Orleans Parish is in a “high outbreak” and is considered at a “very high risk vulnerability rate”. The weekly positive test rate is 9.0 percent (last updated 8/18) and the 7-day average positive test rate on September 6 was 5.12 percent, according to the City of New Orleans COVID-19 dashboard and the percentage places Orleans Parish in an active outbreak status with hospitals at a risk of overload.<sup>14 15</sup> The CDC reports that the 7-day positivity rate from Tuesday, August 31 to Monday, September 6, 2021 in Orleans parish was 10.56 percent and the community transmission rate is high.<sup>16 17</sup> Given the positivity rate in Orleans parish, where the Employer’s facility is located, is over 5 five percent, and in accord with *Aspirus*, I conclude that

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<sup>13</sup> See, Johns Hopkins University website <https://bao.arcgis.com/covid-19/jhu/county/22071.html> (data as of 9/7/21).

<sup>14</sup> See City of New Orleans COVID-19 New Orleans Dashboard, data as of 9/06/21, <https://app.powerbigov.us/view?r=eyJrIjoiaWUxZjFjM2ltOTI0ZS00MTcxLWJjYjgtODQwNzg2MDRhMmU3IiwidCI6IjA4Y2JmNDg1LTJjYjctNGEwMi05YTlxLTBkdZDliNDViOWZmNyJ9&pageName=ReportSection>

<sup>15</sup> The City of New Orleans COVID-19 New Orleans Dashboard explains, regarding positivity rates that, “daily data points represent 7-day average cases divided by 7-day average tests. Daily cases for this metric come from subtracting total cases reported on the LDH website from the total cases reported the day before, same for daily tests. Weekly data points represent positive test conducted (not reported) during the given week divided by the sum of positive tests and negative tests conducted (not reported) during the same week.”

<sup>16</sup> See CDC COVID Data Tracker reflecting weekly data as of September 6, 2021, <https://covid.cdc.gov/covid-data-tracker/#county-view>

<sup>17</sup> I note that the New York Times reports that the 14-day average test positivity, updated on September 7, 2021, is 8.0 percent. See, <https://www.nytimes.com/interactive/2021/us/orleans-parish-louisiana-covid-cases.html>

a mail-ballot election is appropriate here.

During the 14 days preceding the hearing one person in the petitioned-for unit had tested positive for COVID, and as a result, others on his shift and on the relieving shift had been quarantining. During that same time period, two employees, employed outside of the petitioned-for unit, tested positive, two others had reported likely exposure to a person who tested positive for COVID, and another individual exhibited COVID symptoms and had to quarantine until August 30. Although the record does not make clear the number of employees employed in classifications outside of the petitioned-for unit, and I cannot pinpoint the number of COVID positive cases and exposures which would mark an outbreak, this evidence certainly reflects that COVID has touched many employees at the Employer's facility, requiring several employees in the petitioned-for unit to quarantine. I am cognizant that the affected employees may be back at work by the date this Decision issues. Nevertheless, this spread occurred recently, in August, and it highlighted the significant impact of one COVID case when the unit is as small as the petitioned-for unit is here. There are about 12 employees in the petitioned-for unit and the one positive case in this proposed unit resulted in 4 to 6 persons in the petitioned-for unit having to quarantine.<sup>18</sup> Additionally, the spread made clear that one positive case can result in 25 percent to 50 percent of the petitioned-for unit being quarantined and unable to vote if the election is held in person. Accordingly, I find that the Covid-19 cases among unit employees would result in their disenfranchisement by a manual election.

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<sup>18</sup> The testimony reflects that the "shift that this person was on [and] . . . the relief shift that this person – that relieved this person" had to quarantine and there are 3 persons on a shift. Thus, it appears that 6 persons had to quarantine. However, in the event that the testimony indicates only the person who relieved the individual person had to quarantine, four employees were impacted.

Since the positivity rate in Orleans parish is above 5 percent and in light of the of the recent number of employees who have tested positive for COVID-19, or have been exposed to the virus, or have had to quarantine, and consistent with *Aspirus Keweenaw*, I direct a mail-ballot election, the details of which are below.

## **V. Challenge**

There is a question whether lead operator Gregory Dequair is a supervisor under Section 2(11) of the Act. Pursuant to my prior ruling, I did not permit litigation over this issue and have determined to vote Gregory Dequair subject to challenge.

## **VI. Conclusions and Findings**

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The parties stipulated the Employer, a Delaware limited liability company with an office and place of business located at 1661 Gravier Street, New Orleans, LA 70112, provides chilled water and steam services to businesses in New Orleans. Annually, in the course and conduct of its business operations, provides services valued in excess of \$50, 000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions or retail concerns. and I find that the Employer is engaged in commerce within the meaning of Section 2(6) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The parties stipulated and I find that the Union is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. The parties stipulated, and I find that there is no collective-bargaining agreement covering any of the employees in the petitioned-for unit, and there is no contract bar, error other bar, to this proceeding.

5. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
6. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

***Included:*** All full-time and regular part-time operators/stationary engineers and maintenance employees employed by the Employer in its New Orleans District Energy System based at 1661 Gravier Street, New Orleans, Louisiana 70112

***Excluded:*** All other employees, managers, office clericals, guards and supervisors as defined in the Act.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by the UA Plumbers and Steamfitters Local Union 60.

#### **A. Election Details**

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. Accordingly, on Wednesday, October 13, 2021, ballots will be mailed to voters by National Labor Relations Board, Region 15, from its office at 600 South Maestri Place, 7<sup>th</sup> Floor, New Orleans, LA 70130-3413. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by Friday, October 22, 2021, should communicate immediately with the National Labor Relations Board by either calling the Region 15 Office at (504) 589-6362 or our national toll-free

line at 1-866-667-NLRB (1-866-667-6572).

All ballots will be commingled and counted at the New Orleans Regional Office on Tuesday, November 2, 2021 at 2:00 p.m. central time. In order to be valid and counted, the returned ballots must be received in the New Orleans Regional Office prior to the counting of the ballots. Due to the extraordinary circumstances of COVID-19 and the directions of state or local authorities, I further direct that the ballot count will take place virtually, on a videoconference platform (such as WebEx, Skype, etc.) to be determined by the Regional Director. Each party will be allowed to have one observer attend the virtual ballot count.

#### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending Sunday, September 20, 2021, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by Tuesday, September 28, 2021. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**<sup>19</sup>

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-ruleseffective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-ruleseffective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed

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<sup>19</sup> The Union has agreed to waive the entire 10-day period it is permitted to receive the voting list prior to the opening of the polling period.

with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain

the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated at New Orleans, Louisiana this 24<sup>th</sup> day of September, 2021.

/s/

Rebecca A. Dormon,  
Assistant Regional Director  
National Labor Relations Board, Region 15  
600 South Maestri Place, 7<sup>th</sup> Floor  
New Orleans, Louisiana 70130-3413



**United States of America**  
**National Labor Relations Board**  
**NOTICE OF ELECTION**



**PURPOSE OF ELECTION:** This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

**SECRET BALLOT:** The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

**ELIGIBILITY RULES:** Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

**CHALLENGE OF VOTERS:** An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

**AUTHORIZED OBSERVERS:** Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

**METHOD AND DATE OF ELECTION**

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 4:30 pm central time on Wednesday, October 13, 2021, ballots will be mailed to voters from the National Labor Relations Board, Region 15, 600 South Maestri Place – 7th Floor, New Orleans, LA 70130-3413. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by Friday, October 22, 2021, should communicate immediately with the National Labor Relations Board by either calling the Region 15 Office at (504)589-6362 or our national toll-free line at 1-844- 762-NLRB (1-844-762-6572).

All ballots will be commingled and counted at the Region 15 Office on Tuesday, November 2, 2021 at 2:00 pm central time. In order to be valid and counted, the returned ballots must be received in the Region 15 Office prior to the counting of the ballots.



**United States of America  
National Labor Relations Board  
NOTICE OF ELECTION**



**VOTING UNIT**

**EMPLOYEES ELIGIBLE TO VOTE:**

Those eligible to vote are: All full-time and regular part-time operators/stationary engineers and maintenance employees employed by the Employer in its New Orleans District Energy System based at 1661 Gravier Street, New Orleans, Louisiana 70112 who were employed by the Employer during the payroll period ending September 20, 2021.

**EMPLOYEES NOT ELIGIBLE TO VOTE:**

Those not eligible to vote are: All other employees, managers, office clericals, guards and supervisors as defined in the Act.



**United States of America**  
**National Labor Relations Board**  
**NOTICE OF ELECTION**



	<p><b>UNITED STATES OF AMERICA</b> <b>National Labor Relations Board</b> 15-RC-280545 <b>OFFICIAL SECRET BALLOT</b></p> <p>For certain employees of <b>CENTRIO ENERGY SOUTH LLC</b></p> <p>Do you wish to be represented for purposes of collective bargaining by <b>UA PLUMBERS AND STEAMFITTERS LOCAL UNION 60?</b></p> <p><b>MARK AN "X" IN THE SQUARE OF YOUR CHOICE</b></p> <table border="1"><tr><td><b>YES</b> <input type="checkbox"/></td><td><b>NO</b> <input type="checkbox"/></td></tr></table>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	
<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>			
<p><b>DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.</b></p> <p><small>The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.</small></p>				



United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

**It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.**

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

**The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:**

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

**The National Labor Relations Board protects your right to a free choice.**

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (504)589-6362 or visit the NLRB website [www.nlr.gov](http://www.nlr.gov) for assistance.

United States of America  
National Labor Relations Board

**Instructions to Eligible Employees Voting  
By United States Mail**



**INSTRUCTIONS**

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE YELLOW RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call the Regional Office at:

**(504) 589-6362**

**TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE**

**BY Friday, October 29, 2021**

# RIGHTS OF EMPLOYEES

**Under the National Labor Relations Act, employees have the right:**

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

**It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.**

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

**The following are examples of conduct that interfere with the rights of employees and may result in the setting aside of the election:**

- Threatening loss of jobs or benefits by an employer or a union
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- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

**The National Labor Relations Board protects your right to a free choice**

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



**NATIONAL LABOR RELATIONS BOARD**  
*an agency of the*  
**UNITED STATES GOVERNMENT**